



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 21]

शिमला, शनिवार, 3 मार्च, 1973/12 फाल्गुन, 1894

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3 मार्च, 1973/12 फाल्गुन, 1894 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं:—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 7-106/71-GAD, dated 24th February, 1973.	General Administration Department.	Granting special pay to the Estate Officer for discharging the additional duties of Collector.
No. 7-27/72-Elec, dated 1st March, 1973.	Election Department.	Extending the date of elections of vacant seats in certain constituencies (wards) of the Jamna Gram Sabha in Tehsil Paonta of Sirmur district.

भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश सरकार

FINANCE DEPARTMENT

TREASURIES AND ACCOUNTS ORGANISATION
NOTIFICATION

Simla-2, the 2nd February, 1973

No. 3-16/78Fin. (T&A).—The Governor of Himachal Pradesh is pleased to promote Shri J. R. Abrol officiating Treasury Officer at present working as Accounts Officer in the Himachal Pradesh Housing Board on deputation on foreign service in his

own pay scale of Rs. 350-900 plus 20 per cent deputation (duty) allowance as officiating inspection Office (Treasuries) in the scale of Rs. 400-30-700/40-1100 with effect from the date of issue of these orders on purely temporary and *ad hoc* basis for a period of three months or till the post of Inspection Officer (Treasuries) in the Treasuries and Accounts Organisation of Finance Department is filled up on regular basis, whichever is earlier. Shri J. R. Abrol will continue to work on deputation on foreign service with Himachal Pradesh Housing Board as here-to-fore.

M. K. KAW,

Finance Secretary.

भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

FORM S. C. 5.

NOTICE OF PUBLICATION OF DRAFT SCHEME

In pursuance of the provision of sub-section (2) of section (7) of the Punjab Land Improvement Scheme Act, 1963. The District Land Improvement Committee, Una hereby publish the Draft Scheme prepared under section (i) of the aforesaid section.

Notice of the publication of the scheme is hereby given in accordance with the provision of section (8) of the Act. All persons affected by the schemes who wish to make any claim or to submit any objection to the draft scheme may do so in writing or by appearing personally before the Enquiry Officer Agriculture Inspector, Soil Conservation if the area concerned before or within thirty days of this draft Schemes.

DRAFT SCHEME PREPARED IN ACCORDANCE WITH SECTION OF THE PUNJAB IMPROVEMENT SCHEME ACT, 1963 DIVISION BILASPUR, DISTRICT UNA, HIMACHAL PRADESH, TEHSIL UNA

- (i) *Object of scheme.*—Prevention of erosion of Soil Preservation and Improvement of Soil reclamation of waste land Constructions of earthen and masonry work. Improvement of water supply.
- (ii) *The work or kind of work to be carried out under scheme.*—Allied Soil Conservation Works.
- (iii) *Agency or agencies by which the work shall be carried out.*—Department or by owner.
- (iv) *Conditions according to which the work shall be carried out.*—50 Per cent of the total expenditure of the Soil Conservation works will be treated as loan and this will be recovered with interest as may be fixed by the Government 10 equal instalments starting from the six year of drawal of loan.

S. No.	Scheme No.	Name of Village	Approximate land to which the Scheme will apply	Private land	Govt. land	Total
1	2	3	4	5	6	7
1.	UNA/KGR/A-160/71-72	Kataur	195, 196, 249, 293, 297 316, 324, 325, 326, 328, 332, 335, 336, 337, 1963/338, 339, 233, 250.	114.6	—	114.6
2.	AMS/UNA/A-203/72-73	Kinnu	3935, 2934, 3938,	28.15	—	28.15
3.	SDR/UNA/G-204/72-73	Oel	1450, 1460, 1449, 1461, 1445, 1614, 1621, 1443, 1627, 1442, 1446 to 1448, 1458, 1459, 1444, 1457, 1624, 1617 to 1619, 1636, 1441, 1451, 1453, 1452, 3075, 3084, 3085, 3080, 3086, to 3088, 3099, 3096, 3100, 3101, 1615, 1623, 1626, 1629, 1630, 1634, 1635, 1651, 3091 to 3093, 3098, 3097, 3094, 3095.	74.5	—	74.5
4.	SDR/UNA/G-205/72-73	Tatehra	1046, 1053, 1054, 1039 min, 1039 min, 1032, 1037, 1038, 1043, 1045, 1347, 1048, 1049, 1050, 1051, 1055, 1766/1433/1434, 1437 min, 1437 min, 1052, 1056.	128.8	—	128.8

1	2	3	4	5	6	7
5.	SDR/UNA/G-206/72-73	Oel	3457 min, 3457 min, 3457 min, 3457 min, 3457 min.	80.4	—	80.4
6.	SDR/UNA/G-207/72-73	Oel	2278, 2318, 2319, 3400, 3401, 3399	32.5	—	32.5
7.	SDR/UNA/G-208/72-73	Panjawar	2360, 2381, 2385, 2386/1, 7488/2386, 7489/2386, 2387, 2388, 2389.	28.14	—	28.14
8.	SDR/UNA/G-209/72-73	Oel	3836	88.7	—	88.7
9.	AMB/UNA/A-210/72-73	Hambol	3041/1959, 1960, 1972, 1900, 2900/1973, 2903/1973, 2904/1973, 1899, 3042/1959, 1971, 1961, 2902/1973, 1962 to 1965, 1974 to 1976, 1966 to 1970, 1977, 1983, 1984, 1986, 1987, 1953, 1954, 1946, 1985, 1898, 1958, 1891, 2905/1978, 2906/1978, 2907/1978, 2908/1978-1979, 2909/1979, 2910/1979, 1992 to 1994, 1980, 1996, 1999, 1793, 1800, 1802, 1805, 1806, 1808, 1809, 1887, 5521, 5524, 5529, 5530, 5532, 5537, 5536.	158.5	—	158.5
10.	SDR/UNA/G-211/72-73	Ambota	5521, 5524, 5529, 5530, 5532, 5537, 5536.	14.7	—	14.7
11.	SDR/UNA/U-212/72-73	Una	1527 min, 1539, 1527 min, 1513, 1518, 1523, 1524, 1551, 4166/1549-1548, 1526, 1551 min, 1513 min, 1515, 1517, 1535, 1545, 1528, 1514, 1516, 1530, 1536, 1541, 1542 min, 1546, 4516/1511, 4518/1543, 1514 min, 1519, 1521, 1525, 1529, 1537, 1538, 1542 min, 1540, 1550, 4512/1504, 1508, 1512, 1520, 4513/1547, 1495, 1497, 1505, 1507, 1510, 1544, 1509, 1510, 3195, 1959, 1966, 3282, 3285, 3180, 3182, 3185, 3186, 3196, 3211, 3193, 1960, 1961, 1962, 1967, 1972, 1977, 1980, 3281, 3179, 3284, and 3283.	65½	—	65½
12.	UNA/KGR/G-188/72-73	Oel	3195, 1959, 1966, 3282, 3285, 3180, 3182, 3185, 3186, 3196, 3211, 3193, 1960, 1961, 1962, 1967, 1972, 1977, 1980, 3281, 3179, 3284, and 3283.	38.8	—	38.8

B. C. Pande,
Secretary,
District Land Improvement Committee,
Una.

FORM S. C. 8.

Notice of publication by the Secretary District Land Improvement Committee, Una.

NOTICE OF PUBLICATION UNDER SECTION 11 OF THE PUNJAB LAND IMPROVEMENT ACT

Notice is hereby given that the scheme providing for the (Item that have found a place in the draft scheme). Prevention of erosion of soil in respect of Land Provided below have been sanctioned by the Committee under section 10 of the Punjab Land Improvement Scheme Act, 1963 :—

Sl. No.	Scheme No.	Village	Tehsil	Khasra No.	Area K. M.
1	2	3	4	5	6
1.	UNA/KGR/G-156/71-72	Panjawar	Una	8144/5818 min, 5419, 8145/5421 min, 6322 min, 8237/6323, 6325, 8240/6326, 6333 min.	331.11
2.	UNA/KGR/G-158/71-72	Badoh	Una	41/19, 20, 21, 42/4, 5, 6, 15, 16, 25	69.10
3.	UNA/KGR/G-162/71-72	Oel	Amb	3120, 3122 to 3124, 3128, 3131, 3133 to 3135, 3143, 3149, 3152, 3168, 3169, 3167, 3145, 3150, 3156, 3158, 3161, 3160, 3163, 3164, 3166, 3155, 3121, 3159.	64.6

1	2	3	4	5	6
4.	UNA/KGR/G-168/71-72	Ispur	Una	32/19/2, 20, 21/1, 33/16, 17/2, 23/2, 24, 25/1, 28, 35/1 5/1, 5274,	74.16
5.	UNA/KGR/G-168A/71-72	Ispur	Una	32/18/2, 19/1, 23, 36/3, 4/1; 7/3, 8, 9, 12, 13, 141/1	66.18
6.	UNA/KGR/G-168B/71-72	Ispur	Una	63/24/2, 25, 64/21/1, 73/1, 2, 9, 10, 12, 13/2, 18, 19/ 1, 23, 74/5/2.	89.19
7.	UNA/KGR/G-170/72-73	Badhera	Una	1063, 1064	208.18
8.	UNA/KGR/U-169/71-72	Bharolian Khurd.	Una	1216/1130/384, 431, 1286/432-433, 1377/1210, 1447/ 1210/382, 1449/383, 1213/1130, 1214/1130, 1215/ 1130, 1212/1130, 1217/1130/384.	102.8

B. C. PANDE,

Secretary,

District Land Improvement Committee, Una.

फार्म एस0 सी0 5

प्राचुर्य प्रयोजना के प्रकाशन की सूचना

पंजाब भूमि सुधार प्रायोजना अधिनियम, 1963 की धारा (1) की उप-धारा (2) के अनुसरण में जिला भूमि सुधार कमेटी ऊना एतद्वारा पूर्वोक्त धारा की उप-धारा के अधीन तैयार की गई प्रयोजना प्रकाशित करती है।

प्रायोजना के प्रकाशन की सूचना एतद्वारा की धारा के उपबन्धों के अनुसार दी जाती है। प्रायोजना से प्रभावित सभी व्यक्ति जो कि प्राचुर्य के बारे किमी प्रकार का दावा करना चाहें या कोई आपत्ति करना चाहें तो जांच अधिकारी एग्रीकल्चर इन्स्पेक्टर सायब कंजर-बेशन जो कि आपके होम का है के सम्मुख इस प्रायोजना के प्रकाशन होने के बाद 30 दिन के अन्दर, अन्दर या इससे पहले लिखित या व्यक्तिगत रूप में ऐसा कर सकते हैं।

पंजाब भूमि सुधार प्रायोजना अधिनियम, 1963 की धारा (5) के प्रकाशन की सूचना एतद्वारा अधिनियम के अनुसार तैयार की गई प्रायोजना नीचे दी गई है।

फार्म एस0 सी0 4

पंजाब भूमि सुधार की धारा के अनुसार तैयार की गई प्राचुर्य प्रायोजना धारा 1963

प्रायोजना के उद्देश्य:-भूमि क्षरण से बचाव भूमि सुधार बंजर भूमियों को आबाद करना, मिट्टी व पत्थर का कार्य, सिंचाई के साधनों में सुधार।

प्रायोजना के अधीन किये जाने वाले कार्य:-हर प्रकार के भूमि कार्यों का निर्माण।

अर्जेंसी या अर्जेंसियां जिन के द्वारा कार्य किया जाएगा:-विभागीय या भूमि मालकों द्वारा।

जिन जिनके अनुसार कार्य किया जाएगा:-कुल खर्च का आधा भाग जोकि भूमि सुधार के कार्यों में खर्च होगा कर्जों के रूप में 10 बराबर वार्षिक किस्तों में व्याज सहित सरकार द्वारा निश्चित व्याज की दर के अनुसार किया जाएगा जिसकी राशि निकलने के पांच वर्ष बाद आरम्भ होगी।

क्रमांक	स्कीम नम्बर	गांव व तहसील	खसरा नं०	व्यक्तिगत भूमि	सरकारी भूमि	क्षेत्रफल
1	2	3	4	5	6	7
1.	ऊना/कांगड़ा/ए-160/ 71-72 I	कटोरा	195, 176, 249, 293, 297, 316, 324, 325, 326, 328, 332, 335 से 337 1963/338, 339, 233, 250.	क. म. 114.6	—	क. म. 114.6

1	2	3	4	5	6	7
2.	सम्ब/ऊना/ए-203/ 72-73.	किन्	3935, 3934, 3938	28.15	-	28.15
3.	एस.डी.भार./ऊना/जी- 204/72-73.	घोईल	1450, 1460, 1449, 1461, 1445, 1614, 1621, 1443, 1627, 1442, 1446 से 1448, 1458, 1459, 1444, 1457, 1624, 1617 से 1619, 1636, 1441, 1451, 1453, 1452, 3075, 3084, 3085, 3080, 3086 से 3088, 3099, 3096, 3100, 3101, 1615, 1623, 1626, 1629, 1630, 1634, 1635, 1651, 3091 से 3093, 3095, 3098, 3097, 3094.	74.5	-	74.5
4.	एस.डी.भार./ऊना/जी- 205/72-73.	टटेहरा	1046, 1053, 1054, 1039 मिन, 1039 मिन, 1032, 1037, 1038, 1043, 1045, 1047, 1048 से 1051, 1055, 1766/1433/1434, 1437 मिन, 1437 मिन, 1052, 1056.	128.8	-	128.8
5.	एस.डी.भार./ऊना/जी- 206/72-73.	घोईल	3457 मिन, 3457 मिन, 3457 मिन, 3457 मिन, 3457 मिन।	80.4	-	80.4
6.	एस.डी.भार./ऊना/जी- 207/72-73.	घोईल	2278, 2318, 2319, 3400, 3401, 3099,	32.5	-	32.5
7.	एस.डी.भार./ऊना/जी- 208/72-73.	पंजावर	2360, 2381, 2385, 2386/1, 7488/ 2386, 7489/2386, 2387, 2388, 2389.	28.14	-	28.14
8.	एस.डी.भार./ऊना/जी- 210/72-73.	हमबोली	3041/1959, 1960, 1972, 1900, 2900/1973, 2904/1973, 1899, 3042/1959, 1971, 1961, 2902/ 1973, 1962 से 1965, 1974, 1975, 1976, 1966 से 1970, 1977, 1983, 1984, 1986, 1987, 1953, 1954, 1946, 1985, 1898, 1958, 1891, 2905/1978, 2906/1978, 2907/ 1978, 2908/1978-1979, 2909/ 1979, 2910/1979, 1992 से 1994, 1980, 1996, 1999, 1793, 1800, 1802, 1805, 1806, 1808, 1809, 1887.	158.5	-	158.5
9.	एस.डी.भार./ऊना/जी- 211/72-73.	सम्बोटा	5521, 5524, 5529, 5530, 5532, 5537, 5536.	14.7	-	14.7
10.	एस.डी.भार./ऊना/यू- 212/72-73.	ऊना	1529 मिन, 1539, 1527 मिन, 1513, 1516, 1523, 1524, 1551, 4166/ 1549-1548, 1526, 1551 मिन, 1513 मिन, 1513, 1517, 1535, 1545, 1528, 1514, 1516, 1530, 1536, 1541, 1542 मिन, 1546, 1516/1511, 4518/	65-1/2	-	65-1/2

1	2	3	4	5	6	7
			1543, 1514 मिन, 1519, 1521, 1525, 1529, 1537, 1538, 1542 मिन, 1540, 1550, 4512/1504, 1508, 1512, 1520, 4513/1547, 1495, 1497, 1505, 1507, 1510, 1544, 1509, 1510.			
11.	एस.डी.आर./ऊना/जी-209/72-73.	घोईल	3836	88.7	-	88.7
12.	ऊना/कांगड़ा/जी-188/72-73.	घोईल	3195, 1959, 1966, 3282, 3285, 3180, 3182, 3185, 3186, 3196, 3211, 3193, 1960 से 1962, 1967, 1972, 1977, 1980, 3281, 3179, 3284 और 3283.	38.8	-	38.8

बी. सी. पांडे,
सचिव,
जिला भूमि सुधार कमेटी, ऊना, जिला ऊना।

फार्म एस. सी. 8

सचिव जिला भूमि सुधार समिति ऊना द्वारा प्रकाशन की सूचना

पंजाब भूमि सुधार प्रायोजना के अधिनियम, 1963 की धारा 11 के अधीन प्रकाशन की सूचना एतद् द्वारा सूचना दी जाती है कि नीचे निर्धारित भूमियों के सम्बन्ध में मर्दानों के प्रारूप प्रायोजना के लिए पंजाब भूमि सुधार प्रायोजना अधिनियम की धारा 10 के अधीन समिति द्वारा स्वीकृत की जा चुकी है।

क्रमांक	स्कीम नम्बर	ग्राम	तहसील	ससरा नम्बर	क्षेत्र
1	2	3	4	5	6
1.	ऊना/कांगड़ा/जी-156/71-72.	पंजावर	ऊना	8144/5818 मिन, 5419, 8145/5421 मिन, 6322 मिन, 8237/6323, 6325, 8240/6326, 6333 मिन.	331.11
2.	ऊना/कांगड़ा/जी-158/71-72.	बड़ोह	ऊना	41/19, 20, 21, 42/4, 5, 6, 15, 16 और 25	69.10
3.	ऊना/कांगड़ा/जी-162/71-72.	घोईल	ग्राम	3120, 3122 से 3124, 3128, 3131, 3133 से 3135, 3148, 3149, 3152, 3168, 3169, 3167, 3145, 3150, 3156, 3158, 3161, 3160, 3163, 3164, 3166, 3155, 3121, 3159.	64.6
4.	ऊना/कांगड़ा/जी-168/71-72.	ईसपुर	ऊना	32/19/2, 20, 21/1, 33/16, 17/2, 23/2, 24, 25/1, 28, 35/5/1, 5274.	74.16
5.	ऊना/कांगड़ा/जी-168-बी/71-72.	ईसपुर	ऊना	63/24/2, 25, 64/21/ 73/1, 2, 9, 10, 12, 13/2, 18, 19/1, 23, 74/5/2.	89.19
6.	ऊना/कांगड़ा/जी-168-ए/71-72.	ईसपुर	ऊना	32/18/2, 19/1, 23, 36/3, 4/1, 7/3, 8, 9, 12, 13, 14/1.	66.18

1	2	3	4	5	6
7.	ऊना/कांगड़ा/जी-170/ 71-72.	वडेहड़ा	ऊना	1063, 1064	208.18
8.	ऊना/कांगड़ा/भू-169/ 71-72.	वडोलिया खुरद।	ऊना	1216/1130/384, 431, 1286/432-433, 1377/1210, 1447/1210/382, 1449/383, 1213/1130, 1214/ 1130, 1215/1130, 1212/1130, 1217/1130/ 384.	102.8

बी० सी० पांडे,
सचिव,
जिला भूमि सुधार कमेटी, ऊना, जिला ऊना।

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाईकोर्ट, फाइनैन्शियल कमिशनर तथा कमिशनर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

शून्य

भाग 4—स्थानीय स्वायत्त शासन: म्यूनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड नोटिफाईड और टाउन एरिया तथा पंचायत विभाग

शून्य

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

INDUSTRIES DEPARTMENT

(GEOLOGICAL CELL)

CORRIGENDUM AND ADDENDUM

Simla-6, the 22nd February, 1973

No. 5-7/73-Ind./ (Glg.)—Please read Rs. 1000 instead of Rs. 100 in para 4 of the Tender Notice in respect of Dugiari quarry of tehsil and district Kangra, Himachal Pradesh sent with this office memo of even number, dated

the 30th January, 1973.

2. Please also add the following para as Para 7 below para 6 of the Tender Notice for Dugiari quarry:—

“7. The period of contract shall be three years from the date of sanction”.

SUBHASH SHARMA,
GEOLOGIST,
Himachal Pradesh.

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

(देखिए पृष्ठ 478 से 538)

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

शून्य

अनुपूरक

शून्य

LAW DEPARTMENT NOTIFICATION

Simla-2, the 20th October, 1972

No. 11-34/72-LR.—The following Acts recently passed by the Parliament which have already been published in the Gazette of India, Extraordinary, Part II, Section 1, are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The Coking Coal Mines (Nationalisation) Act, 1972 (36 of 1972).
2. The Supreme Court (Enlargement of Criminal Jurisdiction) Amendment Act, 1972 (37 of 1972).
3. The Indian Telegraph (Amendment) Act, 1972 (38 of 1972).
4. The Payment of Gratuity Act, 1972 (39 of 1972).
5. The Income-tax (Amendment) Act, 1972 (41 of 1972).
6. The Dentists (Amendment) Act, 1972 (42 of 1972).
7. The Diplomatic Relations (Vienna Convention) Act, 1972 (43 of 1972).
8. The Public Debt (Amendment) Act, 1972 (44 of 1972).
9. The Taxation Laws (Amendment) Act, 1972 (45 of 1972).
10. The Insecticides (Amendment) Act, 1972 (46 of 1972).
11. The Rice-Milling Industry (Regulation) Amendment Act, 1972 (47 of 1972).
12. The Delhi University (Amendment) Act, 1972 (48 of 1972).
13. The Antiquities and Art Treasures Act, 1972 (52 of 1972).
14. The Wild Life (Protection) Act, 1972 (53 of 1972).
15. The Constitution (Twenty-eight Amendment) Act, 1972.

B. D. SHARMA,
Secretary.

Assented to on 17-8-1972.

THE COKING COAL MINES (NATIONALISATION) ACT, 1972

(ACT, No. 36 OF 1972)

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN ACT

to provide for the acquisition and transfer of the right, title and interest of the owners of the coking coal mines specified in the First Schedule, and the right, title and interest of the owners of such coke oven plants as are in or about the said coking coal mines with a view to reorganising and reconstructing such mines and plants for the purpose of protecting, conserving and promoting scientific development of the resources of coking coal needed to meet the growing requirements of the iron and steel industry and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Coking Coal Mines Nationalisation Act, 1972.

(2) The provisions of sections 30 and 31 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of May, 1972.

2. Declaration as to the policy of the State.—It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, “State” has the same meanings as in article 12 of the Constitution.

3. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the 1st day of May, 1972;

(b) “coke oven plant” means the plant and equipment with which the manufacture of hard coke has been, or is being, carried on, and includes—

(i) all lands, buildings, works, machinery and equipment, vehicles, railways, tramways and sidings, belonging to, or in, the coke oven plant,

(ii) all workshops belonging to the coke oven plant, including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshops stand,

(iii) all coke in stock or under production and other stores, stocks and instruments, belonging to the coke oven plant,

(iv) all power stations belonging to the coke oven plant or operated for supplying electricity for the purpose of working the coke oven plant or a number of coke oven plants,

(v) all lands, buildings and equipment belonging to the coke oven plant where the washing of coal is carried on,

(vi) all other fixed assets, movable or immovable, and current assets belonging to a coke oven plant, whether within its premises or outside.

Explanation.—“Current assets” do not include dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coke oven plant;

(c) “coking coal mine” means a coal mine in which there exists one or more seams of coking coal, whether exclusively or in addition to any seam of other coal;

(d) “company” means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), and includes a foreign company within the meaning of section 591 of that Act;

(e) “Commissioner” means the Commissioner of Payments appointed under section 20;

(f) “Custodian” means the Custodian appointed under sub-section (2) of section 14, to take over, or carry on, the management of a coking coal mine or coke oven plant;

(g) “date of assent” means the date on which assent is given by the President to this Act;

(h) “Government company” has the meaning assigned to it by section 617 of the Companies Act, 1956 (1 of 1956);

(i) “managing contractor” means the person, or body of persons, who, with the previous consent in writing of the State Government, has entered into an arrangement, contract or understanding, with the owner of a coking coal mine or coke oven plant under which the operations of the coking coal mine or coke oven plant are substantially controlled by such person or body of persons;

(j) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—

- (i) all borings and bore holes;
- (ii) all shafts adjacent to, and belonging to, or in, a mine, whether in the course of being sunk or not;
- (iii) all levels and inclined planes in the course of being driven;
- (iv) all open cast working;
- (v) all conveyors or aerial ropeways provided for bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;
- (vi) all lands, building works, adits, levels, planes, machinery and equipment, vehicles, railways, tramways and sidings belonging to, or in, or about, a mine;
- (vii) all workshops belonging to, or in, a mine, including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshops stand;
- (viii) all coal in stock or in transit or under production and other stores, stocks and instruments belonging to, or in a mine;
- (ix) all power stations belonging to, or, a mine or operated for supplying electricity for the purpose of working the mine or a number of mines;
- (x) all lands, buildings and equipment belonging to, or, in, a mine where the washing of coal or manufacture of coke is carried on;
- (xi) all other fixed assets, movable or immovable, and current assets, belonging to a mine, whether within its premises or outside.

Explanation.—"Current assets" do not include dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coking coal mine;

(k) "Mineral Concession Rules" means the rules, for the time being in force, made under the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957);

(l) "mining company" means a company owning a coking coal mine, and in relation to a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956), the undertaking of that company in India;

(m) "notification" means a notification published in the Official Gazette;

(n) "owner"—

- (i) when used in relation to a mine, as the meaning assigned to it in the Mines Act, 1952 (35 of 1952);
- (ii) when used in relation to a coke oven plant, means any person who is the immediate proprietor or lessee or occupier of the coke oven plant or any part thereof or is a contractor for the working of the coke oven plant or any part thereof;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "scheduled bank" means a bank included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(q) "specified date" means such date as the Central Government may, for the purpose of any provision of this Act, by notification, specify; and different dates may be specified for different provisions of this Act;

(r) words and expressions used herein and not defined but defined in the Coal Mines (Conservation, Safety and Development) Act, 1952 (12 of 1952), have the meanings, respectively, assigned to them in that Act;

(s) words and expressions used herein and not defined in this Act or in the Coal Mines (Conservation, Safety and Development) Act, 1952 (12 of 1952), but defined in the Mines Act, 1952 (35 of 1952), shall have the meanings, respectively, assigned to them in the Mines Act, 1952.

CHAPTER II

ACQUISITION OF THE RIGHTS OF OWNERS OF COKING COAL MINES AND COKE OVEN PLANTS

4. *Acquisition of rights in coking coal mines.*—On the appointed day, the right, title and interest of the owners in relation to the coking coal mines specified in the First Schedule shall stand transferred to, and shall vest absolutely in, the Central Government, free from all incumbrances.

(2) For the removal of doubts, it is hereby declared that if, after the appointed day, any other coal mine is found, after an investigation made by the Coal Board to contain coking coal, the provisions of the Coking Coal Mines (Emergency Provisions) Act, 1971 (64 of 1971), shall, until that mine is nationalised by an appropriate legislation, apply to such mine.

5. *Acquisition of rights of owners of coke oven plants.*—On the appointed day, the right, title and interest of the owners of each of the coke oven plants specified in the Second Schedule, being the coke oven plants which are situated in or about the coking coal mines specified in the First Schedule, shall stand transferred to and shall vest absolutely in, the Central Government, free from all incumbrances.

6. *Central Government to be the lessee of the State Government.*—(1) Where the rights of an owner under any mining lease granted, or deemed to have been granted, in relation to a coking coal mine, by a State Government or any other person, vest in the Central Government under section 4, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of the State Government or such other person, as the case may be, in relation to such coking coal mine as if a mining lease in relation to such coking coal mine and had been granted to the Central Government under the Mineral Concession Rules, the period of such lease being the entire period for which such lease could have been granted by the State Government or such other person under those Rules and, thereupon, all the rights under such mining lease, including surface, underground and other rights granted to the lessee shall be deemed to have been transferred to, and vested in, the Central Government.

(2) On the expiry of the term of any lease, referred to in sub-section (1), such lease shall, if so desired by the Central Government be renewed, on the same terms and conditions on which the lease was held on the appointed day, by the lessor for the maximum period for which such lease can be renewed under the Mineral Concession Rules.

7. *Power of Central Government to direct vesting rights in a Government company.*—(1) Notwithstanding anything contained in sections 4 to 6 (both inclusive), the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by an order in writing, that the

right, title and interest of an owner in relation to a coking coal mine or coke oven plant referred to, respectively, in section 4 or section 5 shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of publication of the direction or on such earlier or later date (not being a date earlier than the appointed day), as may be specified in the direction.

(2) Where the right, title and interest of an owner in relation to a coking coal mine or coke oven plant vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become—

(a) the lessee in relation to such coking coal mine as if a mining lease in relation to such coking coal mine had been granted to the Government company under the Mineral Concession Rules, the period of such lease being the entire period for which such lease could have been granted under those Rules;

(b) the owner of the coke oven plant,

and all the rights and liabilities of the Central Government in relation to such coking coal mine or coke oven plant shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) The provisions of sub-section (2) of section 6 shall apply to a lease which vests in a Government company as they apply to a lease vested in the Central Government and, reference therein to the Central Government shall be construed as reference to the Government company.

8. Properties vesting in Central Government to be freed from mortgages, etc.—(1) All property which vests in the Central Government or in a Government company under this Chapter shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(2) Every mortgagee of any property which has vested under this Act in the Central Government or in a Government company, and every person holding any charge, lien or other interest in or in relation to any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.

(3) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (1) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim payment of the mortgage money or other dues, in whole or in part, out of the amount specified in relation to such property in the First Schedule or the Second Schedule, as the case may be; but no such mortgage, charge or lien or other interest shall be enforceable against any such property of the Central Government or the Government company.

9. Central Government not to be liable for prior liabilities.—(1) Every liability of the owner, agent, manager, or managing contractor of a coking coal mine or coke oven plant, in relation to any period prior to the appointed day, shall be the liability of such owner, agent, manager or managing contractor, as the case may be, and shall be enforceable against him and not against the Central Government or the Government company.

(2) For the removal of doubts, it is hereby declared that—

(a) save as otherwise provided elsewhere in this Act, no claim for wages, bonus, royalty, rate, rent, taxes, provident fund, pension, gratuity or any other dues in relation to a coking coal mine or coke oven plant in respect of any period prior to the appointed day, shall be enforceable against the Central Government or the Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to any coking coal mine or coke oven plant passed after the appointed day, but in relation to any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government or the Government company;

(c) no liability for the contravention of any provision of law for the time being in force, made before the appointed day, shall be enforceable against the Central Government or the Government company.

CHAPTER III

PAYMENT OF AMOUNT

10. Payment of amount to owners of coking coal mines.—The owner of every coking coal mine or group of coking coal mines specified in the second column of the First Schedule, shall be given by the Central Government, in cash and in the manner specified in section 21, for vesting in it, under section 4, the right, title and interest of the owner in relation to such coking coal mine or group of coking coal mines, an amount equal to the amount specified against it in the corresponding entry in the fifth column of the said Schedule.

11. Payment of amount to owners of coke oven plants.—The owner of every coke oven plant specified in the second column of the Second Schedule, shall be given by the Central Government, in cash and in the manner specified in section 21, for vesting in it, under section 5, the right, title and interest of the owner in relation to such coke oven plant, an amount equal to the amount specified against it in the corresponding entry in the fifth column of the said Schedule.

12. Payment of further amount.—(1) In consideration of the retrospective operation of the provisions of section 4 and section 5, there shall be given by the Central Government, in cash, to the owner of every coking coal mine specified in the First Schedule or the owner of every coke oven plant specified in the Second Schedule, an amount equal to the amount which would have been, but for the provisions of the said section 4 or section 5, as the case may be, payable to such owner under the Coking Coal Mines (Emergency Provisions) Act, 1971 (64 of 1971), for the period commencing on the 1st day of May, 1972, and ending on the date of assent.

(2) In addition to the amount specified in sub-section (1), there shall be given by the Central Government, in cash, to the owner of every coking coal mine specified in the First Schedule and the owner of every coke oven plant specified in the Second Schedule, simple interest at the rate of four per cent per annum on the amount specified against such owner in the corresponding entry in the fifth column of the First Schedule or the Second Schedule, as the case may be, for the period commencing on the date of assent and ending on the date of payment of such amount to the Commissioner.

(3) The amounts referred to in sub-section (1) and sub-section (2) shall be in addition to the amount specified

in the First Schedule or the Second Schedule, as the case may be.

13. Income derived by the owners of coking coal mines and coke oven plants after the appointed day to be refunded to the Central Government.—(1) Where, in pursuance of any decree, order or injunction made by a court, the Central Government or the Custodian appointed under the Coking Coal Mines (Emergency Provisions) Act, 1971 (64 of 1971), was prevented from taking over the management of any coking coal mine or coke oven plant, the owner of such coking coal mine or coke oven plant shall render, within sixty days from the date of assent, to the Central Government or the Government company, as the case may be, accounts, in relation to the period commencing on the appointed day and ending on the date of assent, with regard to the—

- (a) assets or stores of the coking coal mine or coke oven plant acquired or sold by him during the said period;
- (b) coal or coke sold or despatched during the said period;
- (c) income derived by him from the coking coal mine or coke oven plant during the said period.

(2) If, on examination of the accounts referred to in sub-section (1), any income is found to have been derived by the owner from the coking coal mine or coke oven plant during the period referred to in that sub-section, such income shall be set off against the amount specified in the First Schedule or the Second Schedule, as the case may be, against the name of such owner, and the balance of such amount shall be paid to him.

(3) If no account is rendered by the owner of a coking coal mine or coke oven plant within the period referred to in sub-section (1) or if the Central Government or the Government company has any reason to believe that the account rendered by such owner is incorrect or false in material particulars, the Central Government or the Government company may refer the matter to the Commissioner and thereupon the Commissioner shall determine the income derived by the owner from the coking coal mine or coke oven plant during the period referred to in sub-section (1), and set off such income against the amount specified in the First Schedule or the Second Schedule, as the case may be, against the name of such owner and pay the balance to such owner.

CHAPTER IV

MANAGEMENT, ETC., OF COKING COAL MINES AND COKE OVEN PLANTS

14. Management, etc., of coking coal mines and coke oven plants.—(1) The general superintendence, direction, control and management of the affairs and business of a coking coal mine or coke oven plant, the right, title and interest of an owner in relation to which have vested in the Central Government under section 4 or section 5, as the case may be, shall, —

- (a) in the case of a coking coal mine or coke oven plant, in relation to which a direction has been made by the Central Government under sub-section (1) of section 7, vest in the Government company specified in such direction, or
- (b) in the case of a coking coal mine or coke oven plant, in relation to which no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian so appointed, as the case may be, shall

be entitled to exercise all such powers and do all such things as the owner of the coking coal mine or coke oven plant is authorised to exercise and do.

(2) The Central Government may appoint an individual or a Government company as the Custodian of a coking coal mine or coke oven plant in relation to which no direction has been made by it under sub-section (1) of section 7.

15. Duty of persons in charge of management of coking coal mines or coke oven plants to deliver all assets, etc.—

(1) On the vesting of the management of a coking coal mine or coke oven plant in a Government company or on the appointment of a Custodian, all persons in charge of the management of such coking coal mine or coke oven plant immediately before such vesting or appointment, shall be bound to deliver to the Government company or Custodian, as the case may be, all assets, books of account, registers or other documents in their custody relating to the coking coal mine or coke oven plant, and any contract, whether express or implied, providing for the management of the coking coal mine or coke oven plant made before the appointed day between such persons and the owners of such coking coal mine or coke oven plant, shall be deemed to have terminated on the date on which the management of the coking coal mine or coke oven plant vests in the Government company or the Custodian so appointed.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or Custodian as to its or his powers and duties and the Government company or Custodian may, also if it or he so desires, apply to the Central Government at any time for instructions as to the manner in which the management of the coking coal mine or coke oven plant shall be conducted by it or him or in relation to any other matter arising in the course of such management.

(3) The Custodian shall receive from the funds of the coking coal mine or coke oven plant, as the case may be, in relation to which he or it is the Custodian, such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

16. Accounts and audit.—The Custodian of every coking coal mine or coke oven plant shall maintain the accounts of such mine or plant in such manner and under such conditions as may be prescribed.

CHAPTER V

PROVISIONS RELATING EMPLOYEES OF COKING COAL MINES AND COKE OVEN PLANTS

17. Employment of certain employees to continue.—(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and has been, immediately before the appointed day, in the employment of a coking coal mine or coke oven plant shall become on and from the appointed day, an employee of the Central Government, or, as the case may be, of the Government company in which the right title and interest of such mine or plant have vested under this Act, and shall hold office or service, in the coking coal mine or coke oven plant, as the case may be, on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such coking coal mine or coke oven plant had not been transferred to, and vested in, the Central Government or Government company, as the case may be, and continue to do so unless and until his employment in such coking

coal mine or coke oven plant is duly terminated or until his remuneration, terms and conditions of employment are duly altered, by the Central Government or the Government company.

(2) The Central Government or the Government Company in which the right, title and interest in relation to a coking coal mine or coke oven plant have vested, may employ, on mutually acceptable terms and conditions, any person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and who has been, immediately before the appointed day, in the employment of a coking coal mine or coke oven plant, and on such employment the said person shall become an employee of the Central Government or the Government company, as the case may be.

(3) Save as otherwise provided in sub-sections (1) and (2), the services of every person employed by the owner or occupier of a coking coal mine or coke oven plant before the appointed day shall stand terminated on and from the specified date.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other employee from a coking coal mine or coke oven plant to any other coking coal mine or coke oven plant shall not entitle such officer or other employee to any compensation under this Act, or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) Where, under the terms of any contract of service or otherwise, any person whose service becomes terminated, or whose service becomes transferred to the Central Government or a Government company by reason of the provisions of this Act, is entitled to any payment by way of gratuity or retirement benefit or for any leave not availed of, or any other benefits, such person may enforce his claim against the owner of the coking coal mine or coke oven plant, as the case may be, but not against the Central Government or the Government company.

18. *Provident fund.*—(1) Where a coking coal mine or coke oven plant has established a provident fund for the benefit of its employees, the monies relatable to the employees, whose services have become transferred, by or under this Act, to the Central Government or a Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, stand transferred to, and vest in the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred, under sub-section (1), to the Central Government or a Government company shall be dealt with by that Government or company, as the case may be, in such manner as may be prescribed.

19. *Superannuation, welfare and other funds.*—Where a superannuation, welfare or other fund has been established for the benefit of the employees whose services stand transferred to the Central Government or a Government company, the coking coal mine or coke oven plant, by which such employees were employed, shall distribute the amount due to each such employee as if the employee had superannuated, or his services with the coking coal mine or coke oven plant had terminated, on the day immediately preceding the specified date.

CHAPTER VI

COMMISSIONER OF PAYMENTS

20. *Commissioner of Payments to be appointed.*—

(1) For the purpose of disbursing the amounts payable to the owner of each coking coal mine or coke oven plant,

the Central Government shall appoint such person as it may think fit to be the Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner.

(3) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

21. *Payment by the Central Government to the Commissioner.*—(1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the owner of a coking coal mine or coke oven plant, a sum equal to the sum specified against the Coking Coal mine or coke oven plant, as the case may be, in the First Schedule or the Second Schedule together with the amount and interest, if any, referred to in section 12.

(2) In addition to the sum referred to in sub-section (1), the Central Government shall pay, in cash, to the Commissioner, such amount as may become due to the owner of a coking coal mine or coke oven plant in relation to the period during which the management of the coking coal mine or coke oven plant remained vested in the Central Government.

(3) The Commissioner shall open and operate an account in a scheduled bank in respect of each coking coal mine or coke oven plant.

(4) Every amount paid to the Commissioner shall be deposited to the credit of the account, referred to in sub-section (3), of the coking coal mine or coke oven plant to which the payment relates.

(5) Interest accruing on the amount standing to the credit of the account referred to in sub-section (3) shall ensure to the benefit of the owner of the coking coal mine or coke oven plant, as the case may be.

(6) References in this section to the owner of a coking coal mine shall, in relation to a group of coking coal mines specified in the First Schedule, be construed as references to the owner of that group of coking coal mines.

22. *Statement of accounts in relation to the period of management by the Central Government, etc.*—(1) The Central Government or the Government company, as the case may be, shall cause the books in relation to each coking coal mine or coke oven plant, the management of which has vested in it under the Coking Coal mines (Emergency Provisions) Act, 1971 (64 of 1971), to be closed and balanced as on the 30th day of April, 1972 and shall cause a statement of accounts, as on that day, to be prepared, within such time, in such form and in such manner as may be prescribed, in relation to each such mine or plant in respect of the transactions effected by it during the period for which the management of such coking coal mine or coke oven plant remained vested in it:

Provided that where two or more coking coal mines or coke oven plants were owned, before the commencement of this Act, by the same owner, a consolidated statement of accounts may be prepared for all the coking coal mines or coke oven plants owned by such owner.

(2) All amounts received by the Central Government or the Government company after the closure of such accounts shall, where such amounts relate to transactions effected before the appointed day, be included in the said statement of accounts in respect of the coking coal mine or coke oven plant to which the said receipt relates.

(3) The Central Government or the Government company in which the right, title and interest of the coking coal mine or coke oven plant stands vested shall be entitled to receive, up to the specified date, to the

exclusion of all other persons, any money, due to the coking coal mine or coke oven plant, as the case may be, realised after the appointed day notwithstanding that the realisations pertain to a period prior to the appointed day:

Provided that where such realisations have not been included in the statement of accounts as on the 30th day of April, 1972, a supplementary statement of accounts shall be prepared and furnished, at such intervals as may be prescribed, by the Central Government or the Government company to the owner of the coking coal mine or the coke oven plant, as the case may be.

(4) The liabilities of the coking coal mine or the coke oven plant (not being liabilities arising out of advances made by the Central Government or Government company), which could not be discharged by the appointed day, may be discharged by the Central Government or the Government company up to the specified date, and every payment made for the settlement with the owner shall be included in the statement of accounts as on the 30th day of April, 1972, indicating therein the period in relation to which the payments were made:

Provided that the liabilities in relation to the period prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the owner of the coking coal mine or the coke oven plant, as the case may be.

(5) A copy of each statement of accounts prepared under this section shall be delivered by the Central Government or the Government company, as the case may be, to the Commissioner and also to the owner:

Provided that where the number of owners is more than one, only one copy of the statement of accounts shall be given to the owners for the benefit of all of them.

(6) The statement of accounts prepared under this section shall be audited by a person who is qualified to be appointed as an auditor of a company under section 226 of the Companies Act, 1956 (1 of 1956), and the auditor so appointed shall receive, from the funds of the coking coal mine or coke oven plant, as the case may be, such remuneration as the Central Government may fix.

(7) The audit of the statement of accounts shall be conducted in such manner as the Central Government may direct.

23. Claims to be made to the commissioner—(1) Every person having a claim against the owner of a coking coal mine or coke oven plant shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may, on the expiry of the said period of thirty days, entertain the claim within a further period of thirty days, but not thereafter.

(2) Notwithstanding anything contained in any other law for the time being in force, there shall be paid in priority to all other unsecured debts, not being the amounts advanced by the Central Government or the Custodian appointed under the Coking Coal Mines (Emergency Provisions) Act, 1971 (64 of 1971), for the management of the coking coal mine or coke oven plant, as the case may be,—

(a) all wages or salary (including wages payable for time or piece work and salary earned wholly or in part by way of commission) of any employee, in respect of services rendered to the coking coal mine or coke oven plant, as the case may be, and any compensation payable to any workman

under any provisions of Chapter VA of the Industrial Disputes Act, 1947 (14 of 1947);

(b) all amounts due, in respect of contributions payable during the twelve months next before the appointed day, under the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 (46 of 1948), or any other law for the time being in force;

(c) all amounts due in respect of any compensation or liability for compensation under the Workmen's Compensation Act, 1923 (8 of 1923), in respect of the death or disablement of any employee of the coking coal mine or coke oven plant unless such mine or plant has, under such a contract with insurers as is mentioned in section 15 of the said Act, rights capable of being transferred to, and vested in, the workmen;

(d) all sums due to any employee from a provident fund, pension fund or gratuity fund or any other fund established for the welfare of the employees of the coking coal mine or coke oven plant; and

(e) all sums due to the State Government as royalty, rent or dead rent, as the case may be.

(3) The debts specified in sub-section (2) shall rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions and be paid accordingly.

(4) The Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursements made by the Commissioner.

(5) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of the daily newspaper in the English language and one issue of such newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(6) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(7) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the owner of the coking coal mine or coke oven plant, as the case may be, an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing admit or reject the claim in whole or in part.

(8) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions including the place or places at which he will hold his sittings and shall, for the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the issuing of any commission for the examination of witnesses.

(9) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code

45 of 1860) and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

(10) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision, to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the coking coal mine or coke oven plant, as the case may be, is situated.

24. Disbursement of money by the Commissioner.—Where the total amount of the claim admitted by the Commissioner does not exceed the total amount of the money credited to the account of a coking coal mine or coke oven plant, every such admitted claim shall rank equally among themselves and be paid in full, and the balance, if any, shall be paid to the owner, but where such amount is insufficient to meet in full the total amount of the admitted claims, every such claim shall abate in equal proportions and be paid accordingly.

25. Amounts advanced by the Central Government how to be recovered.—Every amount advanced by the Central Government or the Custodian, as the case may be, for the management of a coking coal mine or coke oven plant shall be recovered from the income derived by such coking coal mine or coke oven plant in respect of the period during which the management of such mine or plant remained vested in the Central Government:

Provided that where such income is insufficient to meet in full the total amount of the advances made by the Central Government or the Custodian for the management of the coking coal mine or coke oven plant, the Central Government may make a claim to the Commissioner for the deficiency of the amount so advanced and the claim in respect of such deficiency shall have priority over the claims of all other unsecured creditors of the coking coal mine or coke oven plant.

Explanation.—In this section, "Custodian" means the Custodian appointed under the Coking Coal Mines (Emergency Provisions) Act, 1971 (64 of 1971).

26. Disputes how to be dealt with.—(1) In the event of there being a doubt or dispute as to the right of a person to receive the whole or any part of the amount referred to in sections 10, 11 and 12, the Commissioner shall refer the matter to the court for a decision, and shall make the disbursements in accordance with the decision of the court.

(2) In relation to a coking coal mine or coke oven plant the operations of which were, immediately before the 17th day of October, 1971 under the control of a managing contractor, the amount specified in the First Schedule against such coking coal mine or in the Second Schedule against such coke oven plant shall be apportioned between the owner of the coking coal mine or coke oven plant and such managing contractor in such proportions as may be agreed upon by or between the owner and such managing contractor, and in the event of there being no such agreement in such proportions as may be determined by the court.

Explanation.—In this section, "court", in relation to a coking coal mine or coke oven plant, means the principal civil court of original jurisdiction within the local limits of whose jurisdiction the coking coal mine or coke oven plant is situated.

27. Undisbursed or unclaimed amounts to be deposited to the general revenue account.—Any money paid to the Commissioner which remains undisbursed or unclaimed

after such payment for a period of three years shall be transferred by the Commissioner to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such and shall be dealt with as if such transfer has not been made, the order, if any for payment of the claim being treated as an order for the refund of revenue.

CHAPTER VII

MISCELLANEOUS

28. Effect of Act on other laws.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or other authority.

29. Contracts cease to have effect unless ratified by the Central Government.—(1) Every contract entered into by the owner or occupier of any coking coal mine or coke oven plant for any service, sale or supply before the appointed day shall, on and from the expiry of one hundred and twenty days from the date of assent, cease to have effect unless such contract is, before the expiry of that period, ratified in writing, by the Central Government and in ratifying such contract the Central Government may make such alterations or modifications therein as it may think fit:

Provided that the Central Government shall not omit to ratify a contract unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the coking coal mine or coke oven plant.

(2) The Central Government shall not omit to ratify a contract or make any alteration or modification therein except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract.

30. Penalties.—Any person who,—

- (a) having in his possession, custody or control of any property forming part of the undertaking of any coking coal mine or coke oven plant referred to in the First Schedule or the Second Schedule, as the case may be, wrongfully withholds such property from the Central Government or Government company, or
 - (b) wrongfully obtains possession of, or retains, any property forming part of the undertaking of any coking coal mine or coke oven plant referred to in the First Schedule or the Second Schedule, as the case may be, or wilfully withholds or fails to furnish to the Central Government or any person specified by that Government, any document relating to such coking coal mine or coke oven plant, which may be in his possession, custody or control, or fails to deliver to the Custodian any assets, books of account, registers or other documents in his custody relating to the coking coal mine or coke oven plant in respect of which a Custodian has been appointed, or
 - (c) wrongfully removes or destroys any property of any coking coal mine or coke oven plant or prefers any claim under this Act in relation to such mine or plant, which he knows or has reasonable cause to believe to be false or grossly inaccurate,
- shall be punishable with imprisonment for a term which may extend to two years, or with

fine which may extend to ten thousand rupees, or with both.

31. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

32. Mining companies not to be wound up by court.—No proceeding for the winding up of a mining company, the right, title and interest in relation to the coking coal mine or coke oven plant owned by which have vested in the Central Government or in a Government company under this Act or for the appointment of a receiver in respect of such business, shall lie in any court except with the consent of the Central Government.

33. Delegation of powers.—(1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act may also be exercised by any person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

34. Power to make rules.—(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the coking coal mines or coke oven plants shall be managed by a Government company or a Custodian;

(b) the manner in which provident fund monies referred to in section 18 shall be dealt with;

(c) the form and manner in which the statement of accounts referred to in section 22 shall be prepared;

(d) any other matter in relation to which such rule is required to be, or may be, made.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

35. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of assent.

36. Coking coal mines to which the Act shall not apply.—Nothing in this Act shall apply to any coking coal mine—

(a) owned or managed by a Government company or corporation owned or controlled by Government;

(b) owned or managed by a company engaged in the production of iron or steel:

Provided that this section shall not extend to such mine or part thereof which, in the opinion of the Central Government, is in excess of the requirements for the production of iron and steel by that company.

THE FIRST SCHEDULE

(See sections 4 and 10)

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
1	2	3	4	5
1.	Dhori (EB-1)	Post Office Bermo, District Hazaribagh.	Ownership under dispute.	6,77,500
2.	Kalyani Selected Kargali (EB-2)	Post Office Pichri, District Hazaribagh.	Gouri Shanker and Others, Post Office Bermo, Hazaribagh.	7,19,000
3.	Khas Dhori (EB-3)	Post Office Pichri, District Hazaribagh.	Khas Dhori Colliery Company, Post Office Katrasgarh, Dhanbad.	4,07,000
4.	Pipradih (EB-4)	Post Office Gomia, District Hazaribagh.	Pacific Coal Company, Post Office Gomia, District Hazaribagh.	14,13,500
5.	Pichri (EB-5)	Post Office Pichri, District Hazaribagh.	Pichri Colliery Company Private Limited, Post Office Bermo, Hazaribagh.	3,21,800
6.	Selected Dhori (EB-6)	Post Office Bermo, District Hazaribagh.	Selected Dhori Colliery, Post Office Katrasgarh, Dhanbad.	7,43,500

1	2	3	4	5
7.	Turyo (EB-7)	Post Office Turyo, District Hazaribagh.	Bhubansewar Singh and Shivdayal Rathi, Post Office, Jharia, Dhanbad.	5,74,000
8.	Tarmi (EB-8)	Post Office Turyo, District Hazaribagh.	Tarmi Colliery Company, Industrial Bank Building, Post Office Jharia, Dhanbad.	8,30,500
9.	Albion (J-1)	Post Office Karmatand	Albion Colliery Company, Post Office Karmatand, Dhanbad.	4,02,000
10.	Bokaro Jharia (J-2)	Post Office Karmatand	Messrs. Agarwalla Brothers, Post Office Karmatand, Dhanbad.	4,64,000
11.	North Damuda (J-3)	Post Office Nudkhurkee	Hazaribagh Coal Syndicate Private Limited, Post Office Jharia, Dhanbad.	8,39,300
12.	Kessurgarh (J-4)	Post Office Nudkhurkee	Manbhoom Coal Syndicate Limited, Post Office Jharia, Dhanbad.	27,50,00
13.	Madhuband (J-5)	Post Office Nudkhurkee Post Office Bansjora Post Office Kusunda Post Office Bhowrah	Oriental Coal Company Limited, 25, Brabourne Road, Calcutta—1.	1,97,99,500
14.	Kankanee (J-67)			
15.	Pootkee (J-69)			
16.	Amlabad (J-188)			
17.	Bhowarh North (J-189)	Post Office Bhowrah		
18.	Bhowarh South (J-190)			
19.	Mohalrani (J-191)	Post Office Barakar, District Burdwan.		
20.	Begunia (R-6)			
21.	Khas Benedih (J-6)	Post Office Nawagarh	K. C. Mukherjee and Others, Post Office Hirapur, Dhanbad.	2,88,000
22.	Benedih (J-7)	Post Office Nudkhurkee	Benedih Coal Concern, Post Office Katras, Dhanbad.	3,03,000
23.	Khas Ganeshpur (J-8)	Post Office Nawagarh	Khas Ganeshpur Coal Mines Limited 135, Canning Street, Calcutta.	37,500
24.	Ganeshpur (J-9)	Post Office Nawagarh	Ganeshpur Coal Company Private Limited, Post Office Ganeshpur, Dhanbad.	37,500
25.	Ashakuti Phularitand (J-10)	Post Office Kharkharee	Ashakuti Coal Company Limited 1/1, Rowland Road, Calcutta—20.	18,19,000
26.	Mohanpur (J-11)	Post Office Kharkharee	Shrimati Parbati Devi, Post Office Kharkharee, Dhanbad.	5,000
27.	New Bansjora (J-12)	Post Office Kharkharee	S. K. Sahana and Sons Private Limited, Post Office Kharkharee, Dhanbad.	1,49,000
28.	Khas Bhurangya (J-13)	Post Office Mohuda	Khas Bhurangya Coal Company, Post Office Jharia, Dhanbad.	5,000
29.	Ranedihi/Pipratand (J-14)	Post Office Mohuda	Shri K. L. Sablok, c/o Sudarasan Motors, Post Office Dhansar, Dhanbad.	35,000
30.	East Mucheridih (J-15)	Post Office Mohuda	East Mucheridih Coal Company Limited, Post Office Jharia, Dhanbad.	5,000
31.	New Huntodih (J-16)	Post Office Mohuda	New Huntodih Coal Company Limited, 178, Mahatma Gandhi Road, Calcutta—1.	21,300
32.	Bhatdee (J-19)	Post Office Mohuda	Bengal Bhatdee Coal Company Limited, 14, Netaji Subhas Road, Calcutta.	19,60,800
33.	Kharkharee (J-20)	Post Office Kharkharee	Bharat Mining Corporation Limited, 91, Stephen House, Dalhousie Square East, Calcutta—1.	19,66,000
34.	New Sinidih (J-21)	Post Office Kharkharee	Messrs Bamandiha Coal Company Limited, 3, Syhagogue Street, Calcutta—1.	39,500
35.	Dharmaband (J-22)	Post Office Katrasgarh	H. M. Barat and M.C. Barat, Post Office Katrasgarh, Dhanbad.	16,300
36.	New Dharmaband (J-23)	Post Office Malkera	Sethia Mining and Manufacturing Company Limited, 4, Bakul Bagan Road, Calcutta.	12,05,000
37.	Sinidih (J-25)	Post Office Katrasgarh	Sinidih Colliery Concern Private Limited, Post Office Katrasgarh, Dhanbad.	5,13,500

1	2	3	4	5
38.	Tuhndoo Khas (J-26)	Post Office Tundoo	J. P. Lala and Sons Collieries Private Limited, Post Office No. 76, Dhanbad.	4,79,000
39.	Bilbera (J-27)	Pot Office Katrasgarh	B. N. Mondal and Company, 22, Canning Street, Calcutta.	3,93,500
40.	Jealgora Govindpur (J-28)	Post Office Sonardih	Jealgora Govindpur Colliery Company Limited, Post Office Sonardih, Dhanbad.	2,90,500
41.	South Govindpur (J-29)	Post Office Katrasgarh	H.I. Pathak, Post Office Katrasgarh, Dhanbad.	4,22,500
42.	Diamond Tettuliya (J-30)	Post Office Sonardih	Bihar Collieries Limited, District Dhanbad.	5,000
43.	Central Tettuliya (J-31)	Post Office Malkera	Sri Tarapada Lodha and Others, Post Office Katrasgarh, District Dhanbad.	7,500
44.	New Tentulia (J-32)	Post Office Malkera	Tentulia Khas Colliery Company Limited, 24, Barbourne Road, Calcutta.	16,86,500
45.	Central Kooridih Sonardih (J-33)	Post Office Katrasgarh	Central Kooridih Colliery Company, Pot Office Katrasgarh, Dhanbad.	12,23,500
46.	New Gobindpur (J-34)	Post Office Sonardih	New Gobindpur Coal Company Limited, 33, Canning Street, Calcutta—1.	13,92,300
47.	Khas Mehtadih (J-35)	Post Office Katsaragarh	Messrs. Khas Mehtadih Colliery Company, Post Office Katrasgarh, Dhanbad.	13,80,000
48.	Agardih (J-36)	Post Office Katrasgarh	Agardih Colliery Company, Post Office Katrasgarh, District Dhanbad.	3,78,800
49.	Katras Choitodih (J-37)	Post Office Katrasgarh Post Office Sijua Post Office Bansjora Post Office Bansjora Post Office Katrasgarh	Burrakar Coal Company Limited, Chartered Bank Building Calcutta—4.	1,68,55,000
50.	Mudidih (J-62)			
51.	Badruchuk (J-63)			
52.	Loyabad (J-68)			
53.	Lakurka (J-38)			
54.	Koiludih (J-39)	Post Office Katrasgarh	Lakurka Coal Company Limited, 3, Synagogue Street, Calcutta.	7,27,000
55.	East Katras (J-41)		Messrs. East Katras Colliery Company Private, Limited, Post Office Katrasgarh, Dhanbad.	20,08,000
56.	Khas Govindpur (J-40)		Khas Govindpur Coal Company Private Limited, Post Office Katrasgarh, Dhanbad.	2,65,000
57.	East Salanpur (J-42)	Post Office Kalras	East Salanpur Colliery Company	2,97,500
58.	Joint Salanpur (J-43)		Post Office Katrasgarh, Dhanbad.	
59.	Khas Salanpur (J-44)		Sahai Brothers (Receiver H. S. Sahai), Post Office Katrasgarh, Dhanbad.	
60.	North Salanpur (J-45)	Post Office Katrasgarh	Selected Salanpur Colliery Company, Post Office Katrasgarh, Dhanbad.	5,000
61.	Selected Salanpur (J-46)	Post Office Katrasgarh	Central Salanpur Coal Concern, Post Office Katrasgarh, Dhanbad.	1,84,500
62.	Central Salanpur (J-47)	Post Office Katrasgarh	Bharat's Debutter Estate, Post Office Katrasgarh, Dhanbad.	1,96,800
63.	Lakurka Khas (J-48)	Post Office Katrasgarh	M/s. New Lakurka Colliery Company and Shrimati Sarojini Devi, Post Office Katrasgarh, Dhanbad.	4,14,500
64.	Salanpur (J-49)	Post Office Katrasgarh	National Coal Company Private Limited, 48/1, Ram Tarun Bose Lane, Calcutta—6.	2,89,000
65.	New Lakurka (J-50)		Union Coal Company Limited, 135, Biplabi Rash Behari Basu Road, Calcutta—1.	
66.	National Angarpathra (J-51)		New Manbhum Coal Company, 138, Biplabi Rash Behari Basu Road Calcutta—1.	
67.	Union Angarpathra (J-52)	Post Office Sijua	Bijali Kanti Roy, Keshalpur House, Post Office Katrasgarh, Dhanbad.	4,70,000
68.	Gaslitam (J-53)	Post Office Sijua		
69.	Ramkanali (J-54)	Post Office Katrasgarh		

1	2	3	4	5
70. Trigunait (J-55)	}	Post Office Katrasgarh	East Angarpathra Colliery Company Limited, Post Office Katrasgarh, Dhanbad.	16,20,000
71. Kanta Pahari (J-56)				
72. Khas Angarpathra (J-57)				
73. Jharia Khas (J-58)				
74. East Angarpathra (J-59)				
75. Mahabir Angarpathra (J-60)	}	Post Office Katrasgarh	Diamond Angarpathra Colliery Company, Post Office Katrasgarh, Dhanbad	5,000
76. Diamond Angarpathra (J-61)				
77. Jogta (J-64)		Post Office Sijua	Jogta Coal Company Limited, Post Office Sijua, Dhanbad.	6,82,000
78. Sendra (J-65)		Post Office Bansjora	Messrs. Hind Shippers Limited, 135, Biplabi Rash Behari Basu Road, Calcutta—1.	9,99,000
79. Sendra Bansjora-Gopal Gararia (J-66)	}	Post Office Bansjora	Messrs. Sendra Bansjora Colliery Company Private Limited, 135, Canning Street, Calcutta—1.	18,29,000
80. North Ekra (J-78)				
81. Gararia (J-79)				
82. Gopalichuk (West) (J-70)			Central Kirkend Coal Company Limited, 91, Stephen House, Dalhousie Square East, Calcutta—1.	6,94,000
83. Central Kirkend (J-71)		Post Office Kusunda	Motiram Roshanlal Coal Company Private Limited, Kusunda, Dhanbad.	48,800
84. Motiram's Kirkend (J-72)		Post Office Kusunda		
85. Khas Kirkend (J-73)		Post Office Kusunda	Phuramal Agarwal, Post Office Dhansar, Dhanbad.	18,800
86. Kirkend (J-74)	}	Post Office Kusunda	New Marine Coal Company (Bengal) Limited 111, Chittaranjan Avenue Calcutta.	16,24,000
87. New Marine (J-75)				
88. Bansdeopur (J-77)		Post Office Kusunda	New Bansdeopur Coal Company Limited 28-B, Netaji Subhas Road Calcutta.	4,44,500
89. Central Gararia (J-80)		Post Office Bansjora	Central Gararia Colliery Company Private Limited, Post Office Bansjora, Dhanbad.	58,800
90. Gararia (J-81)		Post Office Bansjora	Tikmani and Company, Post Office Bansjora, Dhanbad.	1,34,000
91. Chhota Bowa (J-82)		Post Office Bansjora	Chhota Bowa Colliery Company Limited, Post Office Bansjora, Dhanbad.	3,27,500
92. Murulidhi (J-17)	}	Post Office Mohuda	Kalyanji Naviji and Company, 14, Netaji Subhas Road, Calcutta—1.	21,33,000
93. West Bhuggatdih (J-95)		Post Office Jharia		
94. Industry (J-96)		Post Office Dhansar		
95. West Ena (J-97)		Post Office Dhansar		
96. Murulidhi 20 and 21 Pits. (J-18)		Post Office Mohuda		
97. Chanch (R-3)		Post Office Chirkunda, District Dhanbad.	Bengal Coal Company Limited, 8, Clive Row, Calcutta-1.	49,49,000
98. Maheshpur (J-24)		Post Office Katrasgarh	Messrs. Sahu Minerals and Properties Limited, A-3, Prithviraj Road, Jaipur.	29,68,000
99. Ekra Khas (J-76)		Post Office Kusunda	Busseriya Coal Company (Private) Limited, 13, Radha Bazar Lane, Calcutta-1.	4,29,500
100. Busseriya (J-83)	}	Post Office Kusunda		
101. Busseriya North and South (J-85)				
102. East Ekra (J-84)		Post Office Bansjora	East Ekra Coal Company, c/o K. Worah, Jora Bangalow, Dhanbad.	11,300
103. North Busseriya (J-86)		Post Office Bansjora	North Busseriya Colliery Company, Post Office Bansjora, Dhanbad.	1,75,300
104. Surendra East Loyabad (J-87)		Post Office Kirkend	Surendra East Loyabad Colliery Company, Post Office Jharia, Dhanbad.	1,24,500
105. Gondudih (J-88)		Post Office Kusunda	Central Alkusa Colliery Company, Post Office Kusunda, Dhanbad.	3,57,000
106. Dhariajoda (J-89)	}	Post Office Kirkend	M/s. H. D. Agarwalla and Sons, Post Office Jharia, Bihar.	13,65,000
107. West Godhur (J-90)		Post Office Kusunda		

1	2	3	4	5
108.	Godhur (J-91)	Post Office Kusunda	Godhur Colliery Company, Post Office Kusunda, Dhanbad.	33,07,000
109.	Pure Kustore (J-92)	Post Office Kusunda	Pure Kustore Colliery Company Post Office Kusunda Dhanbad.	19,27,500
110.	Nayadee Kusunda (J-93)	Post Office Kusunda	Kusunda Nayadee Colliery Company (Private) Limited, Post Office Kusunda, Dhanbad.	27,42,000
111.	Kusunda (J-94)	Post Office Kusunda	Not available.	5,000
112.	Kendwadih (J-98)	Post Office Kusunda		
113.	South Bulliary (J-101)	Post Office Kusunda		
114.	Jealgora (J-184)	Post Office Jealgora	East India Coal Company Limited, Post Office Jealgora, Dhanbad.	93,28,500
115.	Bararee Joyarampur (J-168)			
116.	Bararee (J-185)			
117.	Balihari C.T.C. (J-99)	Post Office Kusunda	Not available.	22,500
118.	Kutchi Balihari (J-100)	Post Office Kusunda	Balihari Colliery Company Limited, 14, Netaji Subhas Road, Calcutta—1.	6,53,000
119.	Bhagaband (J-102)	Post Office Bhagaband	The Borrea Coal Company Limited, Chartered Bank Building, Calcutta—1.	32,58,000
120.	Gonshadih (J-104)	Post Office Kusunda	Sri Biswanath Roy, Keshalpur House, Post Office Katrasgarh, Dhanbad.	12,90,500
121.	Kendwadih (J-103)		Equitable Coal Company Limited, 1/2, Lord Sinha Road, Calcutta—16.	98,800
122.	Bhutgoria (J-109)	Post Office Bhaga		
123.	Hurriladih (J-110)			
124.	Alkusa South (J-105)	Post Office Kustore		
125.	Kustore (J-106)	Post Office Kustore	Raneegunge Coal Association Limited, 3A, Chowringhee place, Calcutta—13.	91,95,000
126.	Burragarh (J-107)			
127.	Pure Burragarh (J-108)	Post Office Jharia	Shri P. Roy, Director and nominated owner, Bhalgora Coal Company, 3, Synagogue Street, Calcutta.	4,93,000
128.	Simlabahal (J-111)	Post Office Jharia	Bengal Nagpur Coal Company, 5, Synagogue Street, Calcutta—1.	6,47,000
129.	Bhuggatdih (J-112)	Post Office Dhansar	North West Coal Company Limited, 5, Synagogue Street, Calcutta—1.	9,77,500
130.	Ena (J-113)	Post Office Dhansar		
131.	East Bhalgora (J-114)			
132.	Khas Jharia (J-115)			
133.	East Ena (J-116)			
134.	East Bhuggatdih (J-117)	Post Office Jharia	East Bhuggatdih Colliery Company (Private) Limited, Post Office Jharia, Dhanbad.	17,08,000
135.	Selected Khas Jharia (J-118)			
136.	Selected Jharia (J-119)			
137.	Selected Model Jharia (J-121)			
138.	Bhalgora (J-120)	Post Office Jharia	Bhalgora Coal Company Limited, 3, Synagogue Street, Calcutta—1.	4,86,000
139.	New Khas Jharia (J-122)			
140.	Fularibad (J-123)	Post Office Jharia	Fularibad Colliery Company, Post Office Jharia, Dhanbad.	15,000
141.	Sonalibad (J-138)			
142.	Rajapur (J-125)	Post Office Jharia	Rajapur Colliery Company Limited, Post Office Jharia, Dhanbad.	2,39,000
143.	Khas Bhuggatdih (J-126)	Post Office Jharia	Khas Bhuggatdih Colliery Company, Post Office Jharia, Dhanbad.	2,67,000
144.	New Pure Jharia (J-124)	Post Office Kharia	D.D. Thacker and Sons, Dhanbad	10,000
145.	Pure Jharia (J-127)			
146.	K. P. Dobari (J-128)	Post Office Jharia	K.P. Dobari, Post Office Jharia	54,300
147.	South Jharia (J-129)			
148.	Model Jharia (J-133)	Post Office Jharia	J. K. Banerjee and Others, Post Box No. 46, Hirapur, District Dhanbad.	1,45,800
149.	East Pure Jharia (J-130)	Post Office Jharia	Owner not known	5,000
150.	Dobari (J-131)	Post Office Jharia	R. N. Bagchi and Brothers 5/8, Middle Row, Calcutta.	3,42,300
151.	East Model Jharia (J-132)	Post Office Jharia	Not available.	5,000
152.	Golden Jharia (J-134)	Post Office Jharia	Khora Ramji, Post Office, Jharia, Dhanbad.	5,000
153.	Fatehpur (J-135)	Post Office Jharia	G. K. Dossa, and Company, Post Office Jharia, Dhanbad.	5,000
154.	Pure Durgapur (J-135)	Post Office Jharia	Pure Durgapur Colliery Company Private Limited, Post Office Jharia, Dhanbad.	5,000

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155.	Khas Jharia (J-137)	Post Office Jharia	Fularibad Colliery, Company, Post Office Jharia, Dhanbad.	5,000
156.	Ganhooih (J-139)	Post Office Jharia	S. B. Banerjee and Sons, Post Office Jharia, Dhanbad.	27,52,000
157.	East Jharia (J-140)	Post Office Jharia	Not available.	5,000
158.	K. P. Kujama (J-141)	Post Office Jharia	Jayantlal Keshaviji, Bale, Dave House, Joraphatak, Post Office Dhansar, Dhanbad.	96,800
159.	Kujama (J-142)		Ganji Dossa and Company, Post Office Jharia, Dhanbad.	62,500
160.	North Kujama (J-143)	Post Office Jharia		
161.	Central Kujama (J-144)	Post Office Jharia		
162.	Nanji Kujama (J-145)			
163.	Pandebera (J-146)		Cental Kujama Coal Concern, Post Office Jharia, Dhanbad.	5,26,000
164.	Pure Kujama (J-147)			
165.	Kujama Pandebera (J-148)	Post Office Jharia		
166.	South Kujama (J-148)		Bagdigi Kujama Collieries Company (1946) Limited, Post Office Jharia, Dhanbad.	25,84,000
167.	Goluckdih (J-150)	Post Office Jharia	Goluckdih Colliery Company, 22, Burtolla Street, Calcutta.	13,96,000
168.	South Goluckdih (J-151)	Post Office Jharia	Messrs. Khimji Dossa and Sons, Post Office Jharia, Dhanbad, and	8,78,500
169.	Central Jharia (J-152)			
170.	Indian Jharia (J-153)		South Goluckdih Coal Company, Post Office Jharia, Dhanbad.	
171.	Lower Upper Jharia (J-154)	Post Office Jharia	Khimji Dossa and Sons, Post Office Jharia, Dhanbad.	1,33,300
172.	Central Tisra (J-155)	Post Office Jharia	Shri K. D. Singh, Post Office Jharia, Post Box No. 111, Dhanbad.	2,71,000
173.	Tisra (D.D.) (J-156)	Post Office Jharia	Dhanji Devji and Sons, Post Office Jharia, Dhanbad.	2,72,800
174.	Tisra (Diamond) (J-157)	Post Office Jharia	The Diamond Coal Company Limited, Post Office Jharia, Dhanbad.	2,56,000
175.	Tisra (A.G.) (J-158)	Post Office Jharia	Amarsing Gowamal and Sons, Post Box No. 47, Jharia, Dhanbad.	3,38,500
176.	Sree Commercial (J-169)	Post Office South Tisra	Bengal Jharia Colliery Company Private Limited, Post Office South Tisra, Dhanbad.	8,50,000
177.	Bengal Jharia (J-160)	Post Office Khas Jeenagora.		
178.	East India (J-161)			
179.	Khas Joyrampur (J-163)		Khas Joyrampur Colliery Company, Post Office Khas Jeenagora, Dhanbad.	31,51,000
180.	Lower Joyrampur (J-165)			
181.	Pure Joyrampur (J-169)	Post Office Tisra		
182.	South Tisra (J-162)		South Tisra Colliery Company Private Limited, Post Office Jharia, Dhanbad.	6,68,000
183.	Kalithan Jeenagora (J-164)	Post Office Khas Jeenagora.	K. B. Seal and Sons, 28 Raja K.L. Goswami Street, Post Office Serampur, District Hooghly (West Bengal).	4,42,500
184.	Kalithan Suratand (J-175)	Post Office Jharia		
185.	New Jeenagora (J-166)	Post Office Khas Jeenagora.		
186.	Central Jeenagora (J-167)			
187.	North Bararee Jeengora (J-170)		Khas Jeenagora Colliery Limited, 135, Biplabi Rash Bihari Basu Road, Calcutta-1.	8,99,000
188.	Khas Jeengora (J-171)			
189.	Sri Jeenagora (J-173)	Post Office Khas Jeenagora.	Jeenagora East Bararee Colliery Company, Post Office Khas Jeenagora, Dhanbad.	3,05,500
190.	East Bararee (J-172)			
191.	New Suratand (J-174)	Post Office Jharia	Not available	5,000
192.	Niluri Patra (J-176)	Post Office Jharia	Niluri Patra Coal Company Limited, Post Office Jharia, Dhanbad.	5,000
193.	North Burrakar Suratand (J-177)	Post Office Jharia		
194.	North Burrakra Lodna (J-178)		The New Standard Coal Company (Private) Limited 27, Palace Court, Calcutta-16.	1,12,500
195.	Lodna (J-179)	Post Office Bhaga		
196.	Standard (J-180)		Standard Coal Company, Post Office Bhaga, Dhanbad.	24,800
197.	Lodna (J-181)	Post Office Jharia		
198.	Madhuban Lodna (J-182)		Lodna Colliery Company (1920) Limited, 6, Lyons Range, Calcutta.	81,80,800
199.	Bagdigi (J-183)			

1	2	3	4	5
200.	Bhulanbararee (J-186)	Post Office Patherdih	Bhulanbararee Coal Company, 4, Clive Row, Calcutta—1.	15,13,300
201.	Lachmi (J-187)	Post Office Patherdih	Lachmi Coal Company, 31, Mullick Street, Calcutta.	76,500
202.	Central Bhowrah (J-192)	Post Office Bhowrah	Central Bhowrah Coal Company, Post Office Jharia, Dhanbad.	30,000
203.	Sitnala (J-193)	Post Office Bhojudih	Mohatta Brothers, 19, British Indian Street, Calcutta—1.	56,300
204.	East Bhowara (J-194)	Post Office Patherdih	Shrimati Jyotsna Devi, Post Office Sitarampur, District Burdwan.	3,49,000
205.	East Sowardih (J-195)	Post Office Patherdih	J. N. Supakar Brothers and Company, Post Office Patherdih, Dhanbad.	5,000
206.	Patherdih (J-196)	Post Office Patherdih	Patherdih Sudamdih Colliery (Private) Limited, Post Office Patherdih, Dhanbad.	56,500
207.	New Sudamdih (J-197)	Post Office Patherdih	New Sudamdih Colliery Company, Post Office Patherdih, Dhanbad.	1,97,000
208.	Selected Patherdih (J-198)	Post Office Patherdih	Selected Patherdih Coal Company Limited, 12, Tarachand Dutta Street, Calcutta—1.	13,000
209.	New Chasnalla (J-199)	Post Office Jharia	New Chasnalla Coal Concern, Post Office Jharia, Dhanbad.	5,000
210.	Pure Chasnalla (J-200)	Post Office Patherdih	Pure Chasnalla Colliery Company, 192, Cross Street, Calcutta—7.	49,800
211.	Junkundar (R-1)	Post Office Chirkunda, District Dhanbad.	D. Mondal and Company Limited, Post Office Dishegarh, District Burdwan West Bengal.	1,56,800
212.	Laikdih Deep (R-2)	Post Office Chirkunda District Dhanbad.	Katras-Jharia Coal Company Limited, 8, Clive Row, Calcutta—1.	16 53,000
212.	Victoria (R-4)	Post Office Kult, District Burdwan.	New Birbhoom Coal Company Limited, 8, Clive Row, Calcutta—1.	23,38,300
214.	Victoria West (R-5)			

Note.—The number specified, in brackets, against the name specified in the second column indicates the corresponding serial number of the coking coal mine in the First Schedule to the Coking Coal Mines (Emergency Provisions) Act, 1971 (64 of 1971). The abbreviations "EB" stand for "East Bokaro Coalfield"; "J" stands for Jharia Coalfield and "R" stands for "Raneegunge Coalfield".

THE SECOND SCHEDULE

(See sections 5 and 11)

Sl. No. 1	Name of the coke oven plant 2	Location of the coke oven plant 3	Name and address of the owners of the coke oven plant 4	Amount (in rupees) 5
1.	Bararee Coke Plant	South Balliary, Kendwadih Colliery, Post Office Kusunda, District Dhanbad.	Bararee Coke Company Limited, 4, Clive Road, Calcutta—1.	21,42,000
2.	Bhowra Coke Plant	Bhowra South Colliery, Post Office Bhowra, District Dhanbad.	Messrs. Bhowra Coke Company, Battacharya's House, Lubi Circular Road, Dhanbad.	11,76,900
3.	Bhulanbararee	Bhulanbararee Colliery, Post Office Patherdih, District Dhanbad.	Bararee Coke Company Limited, 4, Clive Row, Calcutta—1.	2,03,500
4.	Central Bhowra	Central Bhowra Colliery, Post Office Bhowra, District Dhanbad.	Central Bhowra Coal Company (Private) Limited, Post Office Jharia; and G. D. Kumar and Sons, Bastacolla, Post Office Dhansar, Dhanbad.	2,98,000
5.	Central Kooridih	Central Kooridih-Sonardih Colliery, Post Office Katrasgarh, Dhanbad.	Shivram Singh and Company (Private) Limited, Post Office Katrasgarh, Dhanbad district.	1,50,000
6.	Junkundar Valley Beehive Coke Plant.	Junkundar Colliery, Post Office Chirkunda, District Dhanbad.	D. Mondal and Company Limited, Panchayat Road, Post Office Chirkunda, District Dhanbad.	1,08,000

1	2	3	4	5
7.	New Gobindpur	New Gobindpur Colliery, Post Office Sonardih District Dhanbad.	Ghosh's Estate Private Limited, 33, Canning Street Calcutta-1.	112,500
8.	New Standard Lodna	New Standard Lodna Colliery Post Office, Jharia, District Dhanbad.	Messrs, Singh Sachdeva, Post Office Dhansai, Dhanbad.	1,05,000
9.	New Sudamdih	New Sudamdih Colliery, Post Office Patherdih, District Dhanbad.	Sanjive Coke Manufacturing Company, c/o H. D. Adjimera, Post Office Patherdih, Dhanbad.	3,21,000
10.	North Kujama	North Kujama Colliery, Post Office Jharia, District Dhanbad.	Beehive Hard Coke Manufacturing Company, Chowra Construction Company Private Limited, 111, Central Avenue, Calcutta.	2,57,500
11.	Ramkanaly	Ramkanaly Colliery, Post Office Katrasgarh, District Dhanbad	Bijali Kanti Roy, Keshalpur House, Post Office Katrasgarh, Dhanbad and N. C. Coal Company, Post Office Jharia, Dhanbad.	2,02,000
12.	Union Angarpathra	Union Angarpathra Colliery, Post Office Katrasgarh, District Dhanbad.	Satyadeo Singh Coal Company (Private) Limited, 138, Biplabi Rash Bihari Basu Road, Calcutta-1.	1,84,000

Assented to on 20th August, 1972

THE SUPREME COURT (ENLARGEMENT OF CRIMINAL APPELLATE JURISDICTION) AMENDMENT ACT, 1972

(ACT No. 37 OF 1972)

AN
ACT

to amend the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Act, 1972.

2. *Amendment of section 1.*—In section 1 of the Su Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, (28 of 1970), in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted.

Assented to on 21st August, 1972

THE INDIAN TELGRAPH (AMENDMENT) ACT, 1972

(ACT No. 38 OF 1972)

AN
ACT

further to amend the Indian Telegraph Act 1885.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Indian Telegraph (Amendment) Act, 1972.

2. *Substitution of new section for section 5.*—For section 5 of the Indian Telegraph Act, 1885 (13 of 1885) the following section shall be substituted, namely:—

"5. *Power for Government to take possession of licensed telegraphs and to order interception of messages.*

(1) On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do, take temporary possession (for so long as the public emergency exists or the interest of the public safety requires the taking of such action)

of any telegraph established, maintained or worked by any person licensed under this Act.

(2) On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of an offence, for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order:

Provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under this sub-section."

Assented to on 21-8-1972

THE PAYMENT OF GRATUITY ACT, 1972

(ACT No. 39 OF 1972)

AN
ACT

to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oil fields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title, extent, application and commencement.*—(1) This Act may be called the Payment of Gratuity Act, 1972.

(2) It extends to the whole of India:

Provided that in so far as it relates to plantations or ports, it shall not extend to the State of Jammu and Kashmir.

(3) It shall apply to—

- (a) every factory, mine, oilfield, plantation, port and railway company;
- (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;
- (c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf.
- (4) It shall come into force on such date as the Central Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “appropriate Government” means,—
 - (i) in relation to an establishment—
 - (a) belonging to, or under the control of, the Central Government,
 - (b) having branches in more than one State,
 - (c) of a factory belonging to, or under the control of, the Central Government,
 - (d) of a major port, mine oilfield or railway company, the Central Government,
 - (ii) in any other case, the State Government;
- (b) “completed year of service” means continuous service for one year;
- (c) “continuous service” means uninterrupted service and includes service which is interrupted by sickness, accident, leave, lay-off, strike or a lock-out or cessation of work not due to any fault of the employee concerned, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act.

Explanation I.—In the case of an employee who is not in uninterrupted service for one year, he shall be deemed to be in continuous service if he has been actually employed by an employer during the twelve months immediately preceding the year of for not less than—

- (i) 190 days, if employed below the ground in a mine, or
- (ii) 240 days, in any other case except when he is employed in a seasonal establishment.

Explanation II.—An employee of a seasonal establishment shall be deemed to be in continuous service if he has actually worked for not less than seventy-five per cent of the number of days on which the establishment was in operation during the year;

- (d) “controlling authority” means an authority appointed by the appropriate Government under section 3;
- (e) “employee” means any person (other than an apprentice) employed on wages, not exceeding one thousand rupees per mensem, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, but does not include any such person who is employed in a managerial or administrative capacity, or who holds a civil post under the Central Government or a State Government, or who is subject to the Air Force Act, 1950 (45 of 1950), the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957).

Explanation.—In the case of an employee, who, having been employed for a period of not less than five years on wages not exceeding one thousand rupees per mensem, is employed at any time thereafter on wages exceeding one thousand rupees per mensem, gratuity, in respect of the period during which such employee was employed on wages not exceeding one thousand rupees per mensem, shall be determined on the basis of the wages received by him during that period;

(f) “employer” means in relation to any establishment, factory, mine, oilfield, plantation, port, railway company or shop—

- (i) belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned,
- (ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,
- (iii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;

(g) “factory” has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948);

(h) “family”, in relation to an employee, shall be deemed to consist of—

- (i) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents and the widow and children of his predeceased son, if any,
- (ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any;

Provided that if a female employee, by a notice in writing to the controlling authority, expresses her desire to exclude her husband from her family, the husband and his dependent parents shall no longer be deemed, for the purposes of this Act, to be included in the family of such female employee unless the said notice is subsequently withdrawn by such female employee.

Explanation.—Where the personal law of an employee permits the adoption by him of a child, any child lawfully adopted by him shall be deemed to be included in his family, and where a child of an employee has been adopted by another person and such adoption is, under the personal law of the person making such adoption, lawful, such child shall be deemed to be excluded from the family of the employee;

- (i) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908 (15 of 1908);
- (j) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);
- (k) "notification" means a notification published in the Official Gazette;
- (l) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfield (Regulation and Development) Act, 1948 (53 of 1948); clause (f) of section 2 of the Plantation Labour Act, 1951 (69 of 1951);
- (m) "plantation" has the meaning assigned to it in
- (n) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908; (15 of 1908);
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "railway company" has the meaning assigned to it in clause (5) of section 3 of the Indian Railways Act, 1890 (9 of 1890);
- (q) "retirement" means termination of the service of an employee otherwise than on superannuation;
- (r) "superannuation", in relation to an employee, means,—
 - (i) the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment; and
 - (ii) in any other case, the attainment by the employee of the age of fifty-eight years;
- (s) "wages" mean all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

3. *Controlling authority.*—The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

4. *Payment of gratuity.*—(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

- (a) on his superannuation, or
- (b) on his retirement or resignation, or
- (c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee, or, if no nomination has been made, to his heirs.

Explanation.—For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

Provided further that in the case of an employee employed in a seasonal establishment, the employer shall pay the gratuity at the rate of seven days' wages for each season.

(3) The amount of gratuity payable to an employee shall not exceed twenty months' wages.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

(6) Notwithstanding anything contained in sub-section (1),—

- (a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;
- (b) the gratuity payable to an employee shall be wholly forfeited—

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

5. *Power to exempt.*—The appropriate Government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act if, in the opinion of the appropriate Government, the employees in such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.

6. *Nomination.*—(1) Each employee, who has completed one year of service, shall make, within such time, in such form and in such manner, as may be prescribed, nomination for the purpose of the second proviso to sub-section (1) of section 4.

(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Act amongst more than one nominee.

(3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family shall be void.

(4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become

invalid and the employee shall make, within such time as may be prescribed, a fresh nomination in favour of one more members of his family.

(5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed of his intention to do so.

(6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the prescribed form, in respect of such interest.

(7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

7. *Determination of the amount of gratuity.*—(1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.

(3) The employer shall arrange to pay the amount of gratuity, within such time as may be prescribed, to the person to whom the gratuity is payable.

(4) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to an employee for payment of gratuity or as to the person entitled to receive the gratuity the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.

Explanation.—Where there is a dispute with regard to any matter specified in this clause the employee may make an application to the controlling authority for taking such action as is specified in clause (b).

(b) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the amount of gratuity payable to an employee, and, if as a result of such inquiry any amount in excess of the amount deposited by the employer is found to be payable, the controlling authority shall direct the employer to pay such amount as is in excess of the amount deposited by him.

(c) The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

(d) As soon as may be after a deposit is made under clause (a), the controlling authority shall pay the amount of the deposit—

(i) to the applicant where he is the employee; or

(ii) where the applicant is not the employee, to the nominee or heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in a court while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses.

(6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.

(8) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority.

8. *Recovery of gratuity.*—If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon at the rate of nine per cent per annum, from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto.

9. *Penalties.*—(1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) An employer who contravenes, or make default in complying with, any of the provisions of this Act or any rule or order made thereunder shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both:

Provided that where the offence relates to non-payment of any gratuity payable under this Act, the employer shall be punishable with imprisonment for a term which shall not be less than three months unless the court trying the offence, for reasons to be recorded by it in writing, is of opinion that a lesser term of imprisonment or the imposition of a fine would meet the ends of justice.

10. *Exemption of employer from liability in certain cases.*—Where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days' notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the employer and shall if the offence be provided, convict the employer.

11. *Cognizance of offences.*—(1) No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government:

Provided that where the amount of gratuity has not been paid, or recovered, within six months from the expiry of the prescribed time, the appropriate Government shall authorise the controlling authority to make a complaint against the employer, whereupon the controlling authority shall, within fifteen days from the date of such authorisation, make such complaint to a magistrate having jurisdiction to try the offence.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

12. *Protection of action taken in good faith.*—No suit or other legal proceeding shall lie against the controlling authority or any other person in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

13. *Protection of gratuity.*—No gratuity payable under this Act shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court.

14. *Act to override other enactments, etc.*—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act.

15. *Power to make rules.*—(1) The appropriate Government may, by notification, make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assented to on 26-8-1972

THE INCOME-TAX (AMENDMENT) ACT, 1972

ACT NO 41 OF 1972

AN
ACT

to further amend the Income-tax Act, 1961 and to provide for barring, in the computation of total income in respect of certain assessment years prior to the assessment year 1962-63, deduction of amounts paid on account of wealth-tax.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Income-tax (Amendment) Act, 1972.

2. *Amendment of section 40.*—In section 40 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the principal Act), after sub-clause (ii) of clause (a), the following sub-clause shall be, and shall be deemed always to have been, inserted, namely:—

“(iia) any sum paid on account of wealth-tax.

Explanation.—For the purposes of this sub-clause, “wealth-tax” means wealth-tax chargeable under the Wealth-tax Act, 1957 (27 of 1957), or any tax of a similar character chargeable under any law in force in any country outside India or any tax chargeable under such law with reference to the value of the assets of, or the capital employed in, a business or profession carried on by the assessee, whether or not the debts of the business or profession are allowed as a deduction in computing the amount with reference to which such tax is charged, but does not include any tax chargeable with reference to the value of any particular asset of the business or profession.”

3. *Amendment of section 58.*—Section 58, as originally enacted, of the principal Act shall be deemed always to have been re-numbered as sub-section (1) thereof, and after that sub-section, the following sub-section shall be, and shall be deemed always to have been, inserted, namely:—

“(1A) The provisions of sub-clause (iia) of clause (a) of section 40 shall, so far as may be, apply in computing the income chargeable under the head “Income from other sources” as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.

4. *Wealth tax not deductible in computing the total income for certain assessment years.*—Nothing contained in the Indian Income-tax Act, 1922 (11 of 1922), shall be deemed to authorise, or shall be deemed ever to have authorised, any deduction in the computation of the income of any assessee chargeable under the head “Profits and gains of business, profession or vocation” or “Income from other sources” for the assessment year commencing on the 1st day of April, 1957 or any subsequent assessment year, of any sum paid on account of wealth-tax.

Explanation.—For the purposes of this section, “wealth-tax” shall have the same meaning as is assigned to it in the Explanation to sub-clause (iia) of clause (a) of section 40 of the principal Act.

5. *Saving in certain cases.*—Where, before the 15th day of July, 1972 (being the date on which the Income-tax (Amendment) Ordinance, 1972 (7 of 1972), came into force), the Supreme Court has, on an appeal in respect of the assessment of an assessee for any particular assessment year held that wealth-tax paid by the assessee is deductible in computing the total income of that year, then, nothing contained in sub-clause (iia) of clause (a) of section 40, or sub-section (1A) of section 58, of the principal Act, as amended by

this Act, or, as the case may be, section 4 of this Act, shall apply to the assessment of such assessee for that particular year.

6. *Repeal and saving.*—(1) The Income-tax (Amendment) Ordinance, 1972 (7 of 1972), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance or under section 5 or section 6 of the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act or under section 4 or section 5 of this Act, as the case may be, as if this Act had come into force on the 15th day of July, 1972.

Assented to on 27-8-1972

THE DENTISTS (AMENDMENT) ACT, 1972

ACT No. 42 OF 1972

AN
ACT

furth^r to amend the Dentists Act, 1948.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Dentists (Amendment) Act, 1972.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 1.*—In sub-section (2) of section 1 of the Dentists Act, 1948 (16 of 1948), (hereinafter referred to as the principal Act), the words “except the State of Jammu and Kashmir” shall be omitted.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(a) in clause (f), for the words and figures “Indian Medical Council Act, 1933 (27 of 1933)”, the words and figures “Indian Medical Council Act, 1956 (102 of 1956)”, shall be substituted;

(b) for clause (j), the following clause shall be substituted, namely:—

“(j) “recognised dental qualification” means any of the qualifications included in the Schedule;” and

(c) clause (m) shall be omitted.

4. *Insertion of new section 2A.*—In Chapter I of the principal Act, after section 2, the following section shall be inserted, namely:—

“2A. *Construction of references to laws not in force in Jammu and Kashmir.*—Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in the relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.”

5. *Amendment of section 3.*—In section 3 of the principal Act,—

(a) for clause (c), the following clause shall be substituted, namely:—

“(c) not more than four members elected from among themselves, by—

(a) Principals, Deans, Director and Vice-Principals of dental colleges in the States training students for recognised dental qualifications:

Provided that not more than one member shall be elected from the same dental college;

(b) Heads of dental wings of medical colleges in the States training students for recognised dental qualifications;”;

(b) in clause (e), the words “other than State of Jammu and Kashmir or a Union territory” shall be omitted;

(c) to clause (e), the following *Explanation* shall be added, namely:—

“*Explanation.*—In this clause, “State” does not include a Union territory;”

6. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) to sub-section (1), the following proviso shall be added, namely:—

“Provided that a member nominated under clause (e) or clause (f) of section 3, shall hold office during the pleasure of the authority nominating him.”;

(b) in sub-section (3),—

(i) for the words “Principal or Vice-Principal,” the words “Principal, Dean, Director or Vice-Principal” shall be substituted;

(ii) for the words “a professor of dental surgery”, the words “the Head of the dental wing” shall be substituted.

7. *Amendment of section 9.*—In sub-section (2) of section 9 of the principal Act, after the words “President and Vice-President *ex-officio*”, the words “and the Director General of Health Services *ex-officio*” shall be inserted.

8. *Substitution of new section for section 10.*—For section 10 of the principal Act, the following section shall be substituted, namely:—

“10. *Recognition of dental qualifications.*—(1) The dental qualifications, granted by any authority or institution in India, which are included in Part I of the Schedule shall be recognised dental qualifications for the purpose of this Act.

(2) Any authority or institution in India which grants a dental qualification not included in Part I of the Schedule may apply to the Central Government to have such qualification recognised and included in that Part, and the Central Government, after consulting the Council, and after such inquiry, if any, as it may think fit for the purpose, may, by notification in the Official Gazette, amend Part I of the Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in Part I of the Schedule against such dental qualification declaring that it shall be a recognised dental qualification only when granted after a specified date.

(3) (a) The dental qualifications, granted by any authority or institution outside India, which are included in Part II of the Schedule shall be recognised dental qualifications only for the purposes of the registration of citizens of India when the register is first prepared under this Act.

(b) Where any dental qualification granted by any authority or institution outside India, and held by a citizen of India, is recognised for the purposes of the register when it is first prepared after the commencement of the Dentists (Amendment) Act, 1972, the Central Government may, after consultation with the Council, by notification in the Official Gazette, amend Part II of the Schedule so as to include therein the dental qualification so recognised.

(4) (a) The dental qualifications granted by any authority of institution outside India, which are included in Part III of the Schedule, shall be recognised dental qualifications for the purposes

of this Act, but no person possessing any such qualification shall be entitled for registration unless he is a citizen of India.

- (b) Where any dental qualification granted by any authority or institution outside India, and held by a citizen of India, is recognised, except on reciprocal basis, after the commencement of the Dentists (Amendment) Act, 1972, the Central Government may, after consultation with the Council, by notification in the official Gazette, amend Part III of the Schedule so as to include therein the dental qualification so recognised.
- (5) The Council may enter into negotiations with any authority or institution in any State or country outside India which, by law of any such State or country, is entrusted with the maintenance of a register of dentists, for the settling of a scheme of reciprocity for the recognition of dental qualifications and in pursuance of any such scheme, the Central Government may, by notification in the Official Gazette, declare that any such qualification granted by any authority or institution in any such State or country, or such qualification, only when granted after a specified date, shall be a recognised dental qualification for the purposes of this Act, and any such notification may provide for an amendment of the Schedule and may also direct that any such dental qualification as is specified in the notification shall be entered in the Schedule as so amended.
- (6) The Central Government may, after consultation with the Council, by notification in the Official Gazette, amend the Schedule by directing that an entry be made therein in respect of any dental qualification declaring that it shall be a recognised dental qualification only when granted before a specified date."
9. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely:—

"15A. *Appointment of Visitors.*—(1) The Council may appoint such number of Visitors as it may deem necessary to attend at any examination held by any authority or institution in a State which grants recognised dental qualifications and to inspect any institution training students for recognised dental qualifications.

(2) Any person, whether he is a member of the Council or not, may be appointed as a Visitor under this section, but a person who is appointed as an Inspector under section 15 for any inspection or examination shall not be appointed as a Visitor for the same inspection or examination.

(3) The Visitor shall not interfere with the course of any examination but shall report to the President of the Council on the sufficiency of every examination at which he attends and of the courses of study and training at every institution which he inspects, and on the adequacy of the standards of dental education including staff, equipment, accommodation and other facilities prescribed for giving dental education, and on any other matters with regard to which the Council may require him to report.

(4) The report of a Visitor shall be treated as confidential unless in any particular case the President of the Council otherwise directs:

Provided that if the Central Government requires a copy of the report of a Visitor, the Council shall furnish the same."

10. *Amendment of section 16.*—In section 16 of the principal Act, the words "dental or", wherever they occur, shall be omitted.

11. *Insertion of new section 16A.*—After section 16 of the principal Act, the following section shall be inserted, namely:—

"16A. *Withdrawal of recognition of recognised dental qualification.*—(1) When, upon report by the Executive Committee or the Visitor, it appears to the Council—

- (a) that the courses of study and training or the examination to be undergone in order to obtain a recognised dental qualification from any authority or institution in a State, or the conditions for admission to such courses or the standards of proficiency required from the candidates at such examinations are not in conformity with the regulations made under this Act or fall short of the standards required thereby, or
- (b) that an institution does not, in the matter of staff, equipment, accommodation, training and other facilities, satisfy the requirements of the council,

the council shall send a statement to that effect to the Central Government.

(2) After considering such a statement, the Central Government may send it to the Government of the State in which the authority exercises power or the institution is situated, and the State Government shall forward it, along with such remarks as it may think fit to make, to the authority or institution concerned, with an intimation of the period within which the authority or institution may submit its explanation to the State Government.

(3) After considering the explanation, or where no explanation is submitted within the period fixed, then, on the expiry of that period, the State Government shall make its recommendations to the Central Government.

(4) The Central Government may, after considering the recommendations of the State Government and after making such further inquiry, if any, as it may think fit, by notification in the Official Gazette, direct that an entry shall be made in Part I of the Schedule against the qualification granted by the authority or institution declaring that it shall be a recognised dental qualification only when granted before a specified date or that the said recognised dental qualification if granted to students of a specified college or institution affiliated to any University shall be a recognised dental qualification only when granted before a specified date or, as the case may be, that the said recognised dental qualification shall be a recognised dental qualification in relation to a specified college or institution affiliated to any University only when granted after a specified date."

12. *Amendment of section 17.*—In section 17 of the principal Act, the word and figures "section 10" shall be omitted.

13. *Insertion of new section 17A.*—After section 17 of the principal Act, the following section shall be inserted, namely:—

"17A. *Professional conduct.*—(1) The Council may prescribe standards of professional conduct and etiquette or the code of ethics for dentists.

(2) Regulations made by the Council under subsection (1) may specify which violations thereof shall constitute infamous conduct in any profes-

sional respect, that is to say, professional misconduct, and such provision shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force."

14. *Amendment of section 20.*—In sub-section (2) of section 20 of the principal Act,—

- (a) in clause (a), the words "and the maintenance and audit of its accounts" shall be omitted;
- (b) in clause (f), for the words "Inspectors and other officers and servants of the Council", the words "and other officers and servants of the Council, and Inspectors, and Visitors appointed by the Council" shall be substituted.

15. *Amendment of section 21.*—In section 21 of the principal Act,—

- (a) in clause (d), the word "and" occurring at the end shall be omitted;
- (b) in clause (e), the word "and" shall be inserted at the end; and
- (c) after clause (e), the following clause shall be inserted, namely:—
" (f) the Chief Medical Officer of the State, by whatever name called, *ex-officio*."

16. *Amendment of section 23.*—In section 23 of the principal Act, after clause (e), the following clause shall be inserted, namely:—

"(f) the Chief Medical Officer of each participating State, by whatever name called, *ex-officio*."

17. *Amendment of section 27.*—In section 27 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

"Provided that a member nominated under clause (e) of section 21 or clause (e) of section 23, shall hold office during the pleasure of the authority nominating him."

18. *Amendment of section 29.*—In sub-section (1) of section 29 of the principal Act, after the words "President and Vice-President *ex-officio*", the words "and the Chief Medical Officer of the State or the States concerned, whatever name called, *ex-officio*" shall be inserted.

19. *Amendment of section 33.*—In sub-section (1) of section 33 of the principal Act,—

- (a) in the first proviso, for clause (b), the following clause shall be substituted, namely:—

"(b) recognised, in pursuance of a scheme of reciprocity, under sub-section (5) of section 10;"

- (b) in the second proviso, for the word and figures "Part III", the word and figures "Part II" shall be substituted;

- (c) in the third proviso,—

- (i) in clause (b), the word "or" shall be inserted at the end;

- (ii) after clause (b), the following clause shall be inserted, namely:—

"(c) in the State of Jammu and Kashmir, if he is registered on the register of dental practitioners maintained under the Jammu and Kashmir Dentists Act, 1958 (J&K Act, 9 of 1958)."

20. *Amendment of section 34.*—In section 34 of the principal Act,—

- (a) in sub-section (1),—

- (i) for the word "council", wherever it occurs, the words "Central Government" shall be substituted;

- (ii) in the first proviso, for clause (b), the following clause shall be substituted, namely:—

"(b) recognised, in pursuance of a scheme of reciprocity, under sub-section (5) of section 10;"

(b) in sub-section (2),—

- (i) in clause (a), for the words "State Dental Council", the words "State Council" shall be substituted;

- (ii) after clause (a), the following clause shall be inserted, namely:—

"(aa) the State Council may, during the period of two years immediately after the commencement of the Dentists (Amendment) Act, 1972, permit, for sufficient reasons, the registration in the State register of any displaced person or a repatriate who does not hold any recognised dental qualification but has been actually practising the profession of dentistry as his principal means of livelihood from a date prior to the 29th day of March, 1948.—

Explanation.—In this clause,—

- (i) "displaced person" means any person who, on account of civil disturbances or fear of such disturbances in any area now forming part of Bangla Desh, has, after the 14th day of April, 1957 but before the 25th day of March, 1971 left, or has been displaced from, his place of residence in such area and who has since then been residing in India;

- (ii) "repatriate" means any person who, on account of civil disturbances or fear of such disturbances in any area now forming part of Burma or Ceylon, has, after the 14th day of April, 1957, left or has been displaced from, his place of residence in such area and who has since then been residing in India;"

- (iii) in clause (b), the words "irrespective of any considerations of reciprocity," shall be omitted.

21. *Amendment of section 39.*—In section 39 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) On payment of the renewal fee, the Registrar shall issue a certificate of renewal and such certificate shall be proof of renewal of registration."

22. *Amendment of section 41.*—In section 41 of the principal Act,—

- (a) in clause (ii) of sub-section (1), after the words "professional respect", the words, figures and letter "or has violated the standards of professional conduct and etiquette or the code of ethics prescribed under section 17A" shall be inserted; and

- (b) in sub-section (5), after the words "certificate of registration", the words "and certificate of renewal, if any," shall be inserted.

23. *Amendment of section 44.*—In section 44 of the principal Act, after the words "certificate of registration", the words "or a certificate of renewal" shall be inserted.

24. *Insertion of new section 46A.*—After section 46 of the principal Act, the following section shall be inserted, namely:—

"46A. *Transfer of registration.*—Where a dentist registered in one State is practising dentistry in another State, he may, on payment of the prescribed fee which shall not exceed the renewal fee for registration in such other State, make an applica-

tion in the prescribed form to the Council for the transfer of his name, from the register of the State where he is registered, to the register of the State in which he is practising dentistry, and on receipt of any such application, the Council shall, notwithstanding anything contained elsewhere in this Act, direct that the name of such person be removed from the first-mentioned register and entered in the register of the second-mentioned State and the State Councils concerned shall comply with such directions:

Provided that such a person shall be required to produce a certificate to the effect that all dues in respect of his registration in the former State have been paid:

Provided further that where any such application for transfer is made by a dentist against whom any disciplinary proceeding is pending or where for any other reason it appears to the Council that the application for transfer has not been made *bonafide* and the transfer should not be made, the Council may, after giving the dentist a reasonable opportunity of making a representation in this behalf, reject the application."

25. *Amendment of section 50.*—In section 50 of the principal Act, after the words "certificate of registration", the words "or certificate of renewal, or both" shall be inserted.

26. *Insertion of new section 53A.*—After section 53 of the principal Act, the following section shall be inserted, namely:—

"53A. *Accounts and audit.*—(1) The Council shall maintain appropriate accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Council shall be audited annually by the Comptroller and Auditor General of India or any person appointed by him in this behalf and any expenditure incurred by him or any person so appointed in connection with such audit

shall be payable by the Council to the Comptroller and Auditor General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India has in connection with the audit of Government accounts, and in particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers and to inspect the office of the Council.

(4) The accounts of the Council as certified by the Comptroller and Auditor General of India or any person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government.

(5) A copy of the accounts of the Council as so certified together with the audit report thereon shall be forwarded simultaneously to the Council."

27. *Amendment of section 55.*—In sub-section (2) of section 55 of the principal Act,—

(a) after clause (g), the following clause shall be inserted namely:—

"(gg) the form of application for transfer of registration from one State to another;"

(b) for clause (h), the following clause shall be substituted, namely:—

"(h) the charge for supplying printed copies of the registers, and the fees payable for—

(i) registration or renewal of registration;

(ii) supplying a duplicate certificate of registration or renewal; and

(iii) transfer of registration from one State to another;"

(c) for clause (i), the following clause shall be substituted, namely:—

"(i) the forms of certificates of registration and renewal;"

28. *Substitution of new Schedule for the Schedule.*—For the Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE SCHEDULE

PART I

[See sub-sections (1) and (2) of section 10]

Recognised Dental Qualifications granted by the Authorities or Institutions in India

Authority or Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
1. Board of Examiners, Calcutta Dental College and Hospital, Calcutta.	Licentiate in Dental Science;—if granted before the 1st day of May, 1941.	L.D.Sc. Calcutta.
2. State Medical Faculty, Bengal, Calcutta.	Licentiate in Dental Science;—if granted after the 30th day of April, 1941.	L.D.S. (S.M.F.) Bengal
3. City Dental College and Hospital, Calcutta.	Licentiate in Dental Science;—if granted before the 31st day of March, 1940, to any person who— (i) had undergone two years' course of training in that institution; or (ii) having been previously engaged in practice as a dentist or a medical practitioner, had undergone one year's course of training in that institution.	L.D.Sc. (C.D.C.) Calcutta

1	2	3	11
4. University of Bombay	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Prosthetic Dentistry —Periodontia —Oral Surgery —Orthodontia —Dental Radiology —Operative Dentistry —Dental Pathology and Bacteriology	B.D.S. Bombay M.D.S. (Pros.) Bombay M.D.S. (Perio.) Bombay M.D.S. (Oral Surgery) Bombay. M.D.S. (Ortho.) Bombay M.D.S. (Radiology.) Bombay M.D.S. (Operative) Bombay. M.D.S. (Dent. Path. and Bact.) Bombay. L.D.S. (C.P.S.) Bombay	11
5. College of Physicians and Surgeons, Bombay.	Licentiate in Dental Science	L.D.Sc. (Nair) Bombay	
6. Nair Hospital Dental Bosed Bombay	Licentiate in Dental Science		
7. East Punjab University	Bachelor of Dental Surgery; —if granted during the year 1948.	B.D.S. East Punjab	
8. Lucknow University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Prostodontics —Periodontics —Orthodontics —Oral Surgery —Pedodontia and Preventive Dentistry	B.D.S. Lucknow M.D.S. (Pros.) Lucknow M.D.S. (Perio.) Lucknow M.D.S. (Ortho.) Lucknow M.D.S. (Oral Surgery) Lucknow. M.D.S. (Pedo.) Lucknow	
9. Madras University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Oral Surgery —Periodontology	B.D.S. Madras M.D.S. (Oral Surgery) Madras.	
10. Calcutta University	Bachelor of Dental Surgery	M.D.S. (Perio.) Madras	
11. Punjab University	* (i) Bachelor of Dental Surgery * (ii) Master of Dental Surgery —Pedodontia and Preventive Dentistry —Dental Prosthesis and Crown and Bridge Work *—if granted before 31st December, 1970	B.D.S. Calcutta B.D.S. Punjab M.D.S. (Pedo.) Punjab M.D.S. (Pros.) Punjab	
12. Punjabi University	Bachelor of Dental Surgery	B.D.S. Punjabi	
13. Osmania University	Bachelor of Dental Surgery	B.D.S. Osmania	
14. Kerala University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Operative Dentistry	B.D.S. Kerala M.D.S. (Operative) Kerala.	
15. Mysore University	Bachelor of Dental Surgery	B.D.S. Mysore	
16. Patna University	Bachelor of Dental Surgery	B.D.S. Patna	
17. Bangalore University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Orthodontics —Oral Surgery —Periodontia	B.D.S. Bangalore M.D.S. (Ortho.) Bangalore M.D.S. (Oral Surgery) Bangalore. M.D.S. (Perio) Bangalore.	
18. Indore University	Bachelor of Dental Surgery	B.D.S. Indore	
19. Gujarat University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Prosthetic Dentistry —Periodontia —Oral Pathology and Bacteriology —Oral Diagnosis and Dental Radiology —Operative Dentistry	B.D.S. Gujarat M.D.S. (Pros.) Gujarat M.D.S. (Perio.) Gujarat M.D.S. (Oral Path. and Bact.) Gujarat. M.D.S. (Oral Diag. & Radiology) Gujarat. M.S.D. Operative Gujarat. B.D.S. Guru Nanak	
20. Guru Nanak University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Pedodontia and Preventive Dentistry —Dental Prosthesis and Crown and Bridge Work	M.D.S. (Perio.) Guru Nanak. M.D.S. (Pros.) Guru Nanak.	

PART II

[See sub-section (3) of section 10]

Recognised Dental Qualifications for the purposes of registration when the register is first prepared

Authority or Institution 1	Recognised dental qualification 2	Abbreviation for registration 3
1. The University of Vienna (Austria)	Post-graduate Certificate of Dentistry	Z.D.S. (Vienna)
2. The Tulane University of Louisiana (U.S.A.)	Doctor of Dental Surgery	D.D.S. (Louisiana, U.S.A.)
3. Dusseldorf (Germany)	Zahnarzt Diploma	

PART III

[See sub-section (4) of section 10]

Recognised Dental Qualifications granted by Authorities or Institutions outside India only when granted to a citizen of India

Authority or Institution 1	Recognised dental qualification 2	Abbreviation for registration 3
1. The University of Punjab, Lahore	Bachelor of Dental Surgery Master of Dental Surgery —if granted before the 15th day of August, 1947.	B.D.S. Lahore M.D.S. Lahore
2. The Punjab State Medical Faculty, Lahore.	Licentiate in Dental Science —if granted before the 15th day of August, 1947.	L.D.Sc. (S.M.F.) Lahore
3. The Board of Examiners, College of Dentistry, Karachi.	Licentiate in Dental Science —if granted before the 31st day of December, 1943.	L.D.Sc. Karachi
4. The Royal College of Surgeons, England (U.K.).	Licence in Dental Surgery Fellowship in Dental Surgery Diploma in Orthodontics.	L.D.S.R.C.S. Eng. F.D.S.R.C.S. Eng. D. Orth R C S Eng.
5. The Royal College of Surgeons, Edinburgh (U.K.).	Licentiate in Dental Surgery Fellow in Dental Surgery	L.D.S.R.C.S. Edin. F.D.S.R.C.S. Edin.
6. Royal College of Physicians and Surgeons of Glasgow/Royal Faculty of Physicians and Surgeons, Glasgow (U.K.)	Licence in Dental Surgery Diploma in Orthopaedics Fellowship in Dental Surgery *Higher Dental Diplomate *—Granted only up to 1965.	L.D.S.R.C.P.S.G. D.D.O.R.C.P.S.G. F.D.S.R.C.P.S.G. H.D.D.
7. The Royal College of Surgeons, Ireland.	Licence in Dental Surgery Fellowship of the Faculty of Dentistry	L.D.S.R.C.S. Irel. F.F.D.R.C.S. Irel.
8. The University of Newcastle Upon Tyne, Newcastle Upon Tyne/ The University of Durham, Newcastle Upon Tyne (U.K.).	*Licence in Dental Surgery Bachelor of Dental Surgery Master of Dental Surgery Doctor of Dental Science *—abolished from 1962.	L.D.S. Dunelm B.D.S. Newcastle/Dunelm M.D.S. Newcastle/Dunelm D.D.S. Newcastle/Dunelm
9. The University of London (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Master of Science (Dentistry)	B.D.S. London M.D.S. London M.Sc. London
10. The University of Manchester (U.K.).	Doctor of Dental Surgery Master of Dental Surgery Bachelor of Dental Surgery Licentiate in Dental Surgery	D.D.S. (U. Manc.) M.D.S. (U. Manc.) B.D.S. (U. Manc.) L.D.A. (U. Manc.)
11. The University of Birmingham (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery *Licence of Dental Surgery *—abolished from 1950.	B.D.S. Birmingham M.D.S. Birmingham L.D.S. Birmingham
12. The University of Liverpool (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Doctor of Philosophy *Licence in Dental Surgery *—abolished in 1963.	B.D.S. Liverpool M.D.S. Liverpool Ph. D. Liverpool L.D.S. Liverpool
13. The University of Leeds (U.K.)	Bachelor of Dental Surgery Diploma in Dental Surgery Master of Dental Surgery	B.Ch., D.U. Leeds L.D.S.U. Leeds M.Ch. D.U. Leeds

1	2	3
14. The University of Sheffield (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Licentiate of Dental Surgery	B.D.S. U. Sheff. M.D.S. U. Sheff. L.D.S. U. Sheff.
15. The University of Bristol (U.K.)	Bachelor of Dental Surgery Diploma in Dental Surgery Master of Dental Surgery	B.D.S. U. Brist. L.D.S. U. Brist. M.D.S. U. Brist.
16. The University of Dundee/University of St. Andrews, Dundee (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Doctor of Dental Science Diploma in Public Dentistry *Diploma in Dental Surgery *—abolished in 1950.	B.D.S. U. Dundee/St. And. M.D.S. U. Dundee/St. And. D.B.Sc. U. Dundee/St. And. D.P.D. U. Dundee/St. And. L.D.S. U. St. And.
17. The Queen's University of Belfast (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery *Licentiate in Dental Surgery *—abolished.	B.D.S. Q. U. Belf. M.D.S. Q. U. Belf. L.D.S. Q. U. Belf.
18. The National University of Ireland, Dublin.	Bachelor of Dental Surgery Master of Dental Surgery	B.D.S.N.U. Irel. M.D.S.N.U. Irel.
19. The Emory University, Atlanta (U.S.A.) Atlanta/Southern Dental College, Atlanta, Georgia (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Atlanta M.S.D. Atlanta
20. University of Illinois, Chicago (U.S.A.)	Degree of Dental Surgery Master of Science	D.D.S. Illinois M.S. Illinois
21. Loyola University, Chicago (U.S.A.)	Doctor of Dental Surgery Master of Science in Oral Biology	D.D.S. Loyola M.S. Loyola
22. North-Western University, Chicago, Illinois (U.S.A.)	Doctor of Dental Surgery Master of Science *Master of Science in Dentistry *—discontinued in 1959.	D.D.S. North-Western M.S. North-Western M.S.D. North-Western
23. Indiana University, Indianapolis, Indiana (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Indiana M.S.D. Indiana
24. College of Dentistry, University of Iowa City, Iowa (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Iowa M.S. Iowa
25. Harvard University, Boston, Massachusetts (U.S.A.)	Doctor of Dental Medicine	D.M.D. Harvard
26. University of Nebraska, Omaha, Nebraska (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Nebraska M.S.D. Nebraska
27. Columbia University, New York City (U.S.A.)	Doctor of Dental Surgery	D.D.S. Columbia
28. University of Pennsylvania, Philadelphia, Pennsylvania (U.S.A.)	*Doctor of Dental Surgery Doctor of Dental Medicine *—abolished in 1964.	D.D.S. Penn. D.M.D. Penn.
29. The University of Texas at Houston, Texas Dental College, Houston (U.S.A.)	Doctor of Dental Surgery	D.D.S. Texas
30. University of Minnesota (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry Doctor of Philosophy	D.D.S. Minnesota M.S.D. Minnesota Ph. D. Minnesota
31. Saint Louis University, Missouri (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. St. Louis M.S. Michigan
32. University of Michigan (U.S.A.)	Doctor of Dental Surgery Doctor of Philosophy	D.D.S. Michigan Ph. D. Michigan
33. Tufts University, Tufts College, Boston (U.S.A.)	Doctor of Dental Medicine Master of Science Master of Dental Science Doctor of Philosophy	D.M.D. Tufts M.S. Tufts M.D.S. Tufts Ph. D. Tufts.
34. The University of Toronto, Ontario (Canada)	Doctor of Dental Surgery Diploma in Dental Public Health Diploma in Oral Surgery and Anaesthesia Diploma in Paedodontics	D.D.S. Toronto D.D.P.H. Toronto Dip. Oral Surg. Toronto Dip. Pedodont. Toronto

1	2	3
	Diploma in Orthodontics Diploma in Periodontics Bachelor of Science in Dentistry Master of Science in Dentistry Doctor of Philosophy Doctor of Dental Surgery	Dip. Orthodont. Toronto Dip. Periodont. Toronto B. Sc. D. Toronto M.Sc.D. Toronto Ph.D. Toronto D.D.S. McGill
35. McGill University, Montreal (Canada)		
36. Deutsche Zahnärztliche Universitäts Institut, Bonn (Germany)	Diploma	
37. Deutsche Zahnärztliche Universitäts Institut, Munich (Germany)	Diploma	
38. Ecole Dentaire de Paris, Paris	Chirugien Dentiste (Diploma of Dental Surgeon)	D.E.D.P. Paris
39. Ecole Dentaire Francaise, Paris	Diploma of Dental Surgeon	D.E.D.F. Paris
40. American Dental College, Karachi	Licentiate in Dental Science—if granted on or before the 31st December, 1936	L.D.Sc. Karachi
41. The Faculty of Medicine, University of Vienna (Austria)	The qualification of dental specialist granted by the faculty of Medicine, University of Vienna, after two years' course in dentistry prior to which the M.D. Degree of that University has been obtained.	
42. University of Berlin (Germany)	Zahnarzt Diploma Doctor Medicine Dentarise	Dr. Med. Dent.
43. University of Freiburg (Germany)	Zahnarzt Diploma	
44. University of Frankfurt (Germany)	Doctor Medicine Dentareai	Dr. Med. Dent.
45. Baltimore College of Dental Surgery, University of Maryland (U.S.A.)	Doctor of Dental Surgery	D.D.S. Maryland
46. University of Rostock (Germany)	Master of Science Doctor Medicinæ Dentariæ	M.S. Maryland Dr. Med. Dent.
47. University of Detroit (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Detroit M.S. Detroit
48. University of Rochester (U.S.A.)	Doctor of Philosophy	Ph.D. Rochester
49. University of Edinburgh (U.K.)	Bachelor of Dental Surgery	B.D.S. Edin.
50. Punjab Dental College/Dental and Optical Collge, Lahore (now defunct)	*Licentiate of Dental Science Diploma *Bachelor of Dental Science Diploma *—if granted on or before the 14th August, 1947	L.D.Sc. Lahore B.D.Sc. Lahore
51. Tokyo Medical and Dental University, Tokyo (Japan)	Dr. of Medical Science —Operative Dentistry	D.M.Sc. —Igaku Hakushi
52. University of New Zealand, Wellington, New Zealand	Master of Dental Surgery	M.D.S. New Zealand
53. Ecole de Chirurgie Dentaire et de Stomatologie de Paris (France)	Diploma	DECD&S. Paris
54. University of Sydney, Sydney (Australia)	Bachelor of Dental Surgery Master of Dental Surgery	B.D.S. Sydney M.D.S. Sydney
55. Georgetown University, Washington (U.S.A.)	Doctor of Dental Surgery Master of Surgery in Pedodontia	D.D.S. Georgetown M.S.(Pedo.) Georgetown
56. University of Alabama, Alabama (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Alabama M.S.D. Alabama
57. University of Otago, Dunedin C.L.A. (New Zealand)	Master of Dental Surgery	M.D.S. Otago
58. Marquette University, Milwaukee, Wisconsin (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Marquette M.S. N.Y.
59. New York University, New York (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. N.Y. M.S.D. N.Y.
60. University of California, San Francisco (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Calif. M.S. Calif.
61. University of Missouri at Kansas City, Missouri (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Missouri M.S. Missouri
62. Washington University, St. Louis, Missouri (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Washington M.S. Washington
63. University of Malaya, Singapore	Bachelor of Dental Surgery	B.D.S. Malaya
64. University of Pittsburg, Pittsburg, Pennsylvania (U.S.A.)	Master of Science in Dentistry (Pedodontics)	M.S.D.(Pedo.) Pittsburg
65. University of Alabama in Birmingham, U.S.A.	Master of Science Degree in Pathology (Oral Pathology)	M.S.D.(Oral Path.) Birmingham

Assented to on 29-8-1972

THE DIPLOMATIC RELATIONS (VIENNA
CONVENTION) ACT, 1972
ACT No. 43 of 1972

AN
ACT

to give effect to the Vienna Convention on Diplomatic Relations, 1961 and to provide for matters connected therewith.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and extent.*—(1) This Act may be called the Diplomatic Relations (Vienna Convention) Act, 1972.

(2) It extends to the whole of India.

2. *Application of Vienna Convention on Diplomatic Relations.*—(1) Notwithstanding anything to the contrary contained in any other law, the provisions set out in the Schedule to this Act of the Vienna Convention on Diplomatic Relations, adopted by the United Nations Conference on diplomatic Interchange and Immunities on the 14th day of April, 1961, shall have the force of law in India.

(2) The Central Government may, from time to time by notification in the Official Gazette amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

3. *Application of certain privileges and immunities to diplomatic missions and their members pursuant to international agreement.*—Where in pursuance of any agreement, convention or other instrument it is necessary to accord to any diplomatic mission and its members, the sending State of which is not a party to the Vienna Convention on Diplomatic Relations, 1961 or to any other special mission and its members, privileges, and immunities in India similar to those contained in the provisions set out in the Schedule, the Central Government may, by notification in the Official Gazette, declare that the provisions set out in the Schedule shall subject to such modifications, if any, as it may consider necessary or expedient for giving effect to the said agreement, convention or other instrument, apply *mutatis mutandis* to the diplomatic mission and its members, or to the other special mission and its members, as the case may be, and thereupon the said provisions shall apply accordingly and notwithstanding anything to the contrary contained in any other law, shall in such application have the force of law in India.

4. *Restrictions on privileges and immunities.*—If it appears to the Central Government that a State which is a party to the Vienna Convention on Diplomatic Relations, 1961 is in breach of its obligations arising hereunder or, that the privileges and immunities accorded to an Indian Mission or members thereof in the territory of any State which is a party to the Vienna Convention on Diplomatic Relations, 1961, are less than those conferred by this Act on the diplomatic mission of that State or members thereof, the Central Government may, notwithstanding anything contained in this Act, by notification in the Official Gazette, withdraw much of the privileges and immunities so conferred from the diplomatic mission of that State or from members thereof as may appear to the Central Government to be proper.

5. *Waiver.*—For the purpose of article 32 of the Convention set out in the Schedule, a waiver by the

head of the mission of any State or any person for the time being performing his functions shall be deemed to be a waiver by that State.

6. *Restrictions on certain exemptions from customs duty, etc.*—Nothing contained in article 36 of the Convention set out in the Schedule shall be construed to entitle a diplomatic mission or member thereof to import into India goods free of any duty of customs without any restrictions on their subsequent sale therein.

7. *Privileges and immunities of citizens of India.*—For the purpose of article 38 of the Convention set out in the Schedule, a citizen of India shall be entitled only to such additional privileges and immunities, other than those set out in that article, as are granted to him by the Central Government by notification in the Official Gazette.

8. *Restrictions on entry into diplomatic premises.*—No public servant or agent of the Central Government, a State Government or any public authority shall enter the premises of a diplomatic mission for the purpose of serving legal process, except with the consent of the head of the mission. Such consent may be obtained through the Ministry of External Affairs of the Government of India.

9. *Evidence.*—If in any proceedings any question arises whether or not any person is entitled to any privilege or immunity under this Act certificate issued by or under the authority of the Secretary to the Government of India in the Ministry of External Affairs stating any fact relating to that question shall be conclusive evidence of that fact.

10. *Power to make rules.*—The Central Government may make rules for carrying out the purposes of this Act.

11. *Notifications issued and rules made under this Act to be laid before Parliament.*—Every notification issued and every rule made under this Act shall be laid as soon as may be after it is issued or made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or, as the case may be, in the rule, or both Houses agree that the notification or rule should not be issued or made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

THE SCHEDULE

(See section 2)

PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, 1961—WHICH SHALL HAVE FORCE OF LAW

Article 1

For the purpose of the present Convention, the following expressions shall have the meaning hereunder assigned to them:

- the "head of the mission" the person charged by the sending State with the duty of acting in that capacity;
- the "members of the mission" are the head of the mission and the members of the staff of the mission;
- the "members of the staff of the mission" are the members of the diplomatic staff, or the

administrative and technical staff and of the service staff of the mission;

- (d) the "members of the diplomatic staff" are members of the staff of the mission having diplomatic rank;
- (e) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;
- (f) the "members of the administrative and technical staff" are the members of the staff of the mission employed in the administrative and technical service of the mission;
- (g) the "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;
- (h) a "private servant" is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;
- (i) the "premises of the mission" are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purpose of the mission including the residence of the head of the mission.

Article 22

1. The premises of the mission shall be inviolable, the agents of the receiving State may not enter them except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1. The sending State and the head of the mission shall be exempt for all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3. The diplomatic bag shall not be opened or detained.

4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5 of the article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircrafts.

Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

2. His papers, correspondence and, except as provided, in paragraph 3 of article 31, his property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

- (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

2. A diplomatic agent is not obliged to give evidence as a witness.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b) and (c) of paragraph 1 of this article, and provided that the measures concerned can be

taken without infringing the inviolability of his person or of his residence.

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under article 37 may be waived by the sending State.

2. Waiver must always be express.

3. The initiation of proceedings by diplomatic agent or by a person enjoying immunity from jurisdiction under article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

Article 33

1. Subject to the provisions of paragraph 3 of this article, diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this article shall also apply to private servants who are in the sole employ of diplomatic agent on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of article 39;

(d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees mortgage dues and stamp duty with respect to immovable property subject to the provisions of article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the mission;

(b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorised representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its

jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 38

1. Except in so far as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State shall enjoy only immunity from jurisdiction, and inviolability in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the missions.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other Ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission as member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport/visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges of immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the passage of members of the administrative and technical

or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport/visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to *force majeure*.

Assented to on 29-8-1972

THE PUBLIC DEBT (AMENDMENT) ACT, 1972 (ACT NO. 44 OF 1972)

AN

ACT

further to amend the Public Debt Act, 1944

WHEREAS in pursuance of clause (1) of article 252 of the Constitution, each of the Houses of the Legislature of the State of Jammu and Kashmir has passed a resolution to the effect that certain matters relating to the public debt of that State, that is to say, matters for which provision is made in the Public Debt Act, 1954 (18 of 1944), should be regulated in that State by Parliament by law;

AND WHEREAS in consequence thereof it is necessary further to amend the Public Debt Act, 1944 (18 of 1944);

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Public Debt (Amendment) Act, 1972.

(2) It shall come into force on the 1st day of September, 1972.

2. *Amendment of section 1A.*—In section 1A of the Public Debt Act, 1944 (18 of 1944), (hereinafter referred to as the principal Act), the words “other than the Government of Jammu and Kashmir” shall be omitted.

3. *Amendment of section 3.*—In sub-section (1) of section 3 of the principal Act,—

(a) in clause (iii), the word “and”, occurring at the end shall be omitted;

(b) in clause (iv), the word “and” shall be added at the end;

(c) after clause (iv), the following clause shall be inserted, namely:—

“(v) is made on or after the 1st day of September, 1972, in the case of as security issued on or after that day by the Government of the State of Jammu and Kashmir,”.

4. *Amendment of section 28.*—In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a

total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

5. *Insertion of new section 31.*—After section 30 of the principal Act, the following section shall be inserted, namely:—

"31. *Construction of references to laws not in force in Jammu and Kashmir.*—Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever necessary, be construed as including a reference to the corresponding law, if any, in force in that State."

Assented to on 31-8-1972

THE TAXATION LAWS (AMENDMENT)

ACT, 1972

(ACT NO. 45 OF 1972)

AN

ACT

further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Taxation Laws (Amendment) Act, 1972.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for provisions of this Act.

CHAPTER II

AMENDMENT TO THE INCOME-TAX ACT, 1961

2. *Insertion of new section 55A.*—In the Income-tax Act 1961 (43 of 1961), (hereinafter referred to as the Income-tax Act, after section 55, the following section shall be inserted, namely:—

"55A. *Reference to valuation Officer.*—With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the Income-tax Officer may refer the valuation of the capital asset to a Valuation Officer—

(a) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the Income-tax Officer is of opinion that the value so claimed is less than its fair market value;

(b) in any other case, if the Income-tax Officer is of opinion—

(i) that the fair market value of the asset exceeds the value of the asset as claimed

by the assessee by more than such percentage of the value of the asset as so claimed or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2) (3), (4) (5) and (6) of section 16A, clauses (ha) and (i) of sub-section (1) and sub-section (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this section, "Valuation Officer" has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957)."

3. *Amendment of section 254.*—In section 254 of the Income-tax Act, sub-section (1A) shall be omitted.

4. *Insertion of new Chapter XXA.*—In the Income-tax Act, after Chapter XX, the following Chapter shall be inserted, namely:—

'CHAPTER XXA

ACQUISITION OF IMMOVABLE PROPERTIES IN CERTAIN CASES OF TRANSFER TO COUNTERACT EVASION OF TAX

269 A. *Definitions.*—In this Chapter, unless the context otherwise requires,—

(a) "apparent consideration", in relation to any immovable property transferred, means,—

(i) if the transfer is by way of sale, the consideration for such transfer as specified in the instrument of transfer;

(ii) if the transfer is by way of exchange,—

(A) in a case where the consideration for the transfer consists of thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer;

(B) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer and such sum;

(b) "competent authority" means an Assistant Commissioner of Income-tax authorised by the Central Government under section 269B to perform the functions of a competent authority under this Chapter;

(c) "court" means a principal civil court of original jurisdiction unless the Central Government has appointed (as it is hereby authorised to do) any special judicial officer within any specified local limits to perform the functions of the court under this Chapter;

(d) "fair market value", in relation to any immovable property transferred, means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;

- (e) "immovable property" means and includes any building or part of a building, and includes, where any land or any building or part of a building is transferred together with any machinery, plant, furniture, fittings or other things such machinery, plant, furniture, fittings, or other things also.

Explanation.—For the purposes of this clause, land, building, part of a building, machinery, plant, furniture, fittings and other things include by rights therein;

- (f) "instrument of transfer" means the instrument of transfer registered under the Registration Act, 1908; (16 of 1908)
- (g) "person interested", in relation to any immovable property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that property under this Chapter;
- (h) "transfer" in relation to any immovable property, means transfer of such property by way of sale or exchange.

269B. Competent authority.—(1) The Central Government may, by general or special order published in the Official Gazette,—

- (a) authorise as many Assistant Commissioners of Income-tax, as it thinks fit, to perform the functions of a competent authority under this Chapter; and
- (b) define the local limits within which the competent authorities shall perform their functions under this Chapter.

(2) In respect of any function to be performed by a competent authority under any provision of this Chapter in relation to any immovable property referred to in section 269C, the competent authority referred to therein shall,—

- (a) in a case where such property is situate within the local limits of the jurisdiction of only one competent authority, be such competent authority;
- (b) in a case where such property is situate within the local limits of the jurisdiction of two or more competent authorities, be the competent authority empowered to perform such functions in relation to such property in accordance with rules made in this behalf by the Board under section 295.

(3) No person shall be entitled to call in question the jurisdiction of a competent authority in respect of any immovable property after the expiry of thirty days from the date on which such competent authority initiates proceedings under section 269D for the acquisition of such property.

(4) Subject to the provisions of sub-section (3), where the jurisdiction of a competent authority is questioned, the competent authority shall, if satisfied with the correctness of the claim, by order in writing, determine the question accordingly and if he is not so satisfied, he shall refer the question to the Board and the Board shall, by order in writing, determine the question.

269C. Immovable property in respect of which proceedings for acquisition may be taken.—(1) Where the competent authority has reason to believe that any immovable property of a fair market value exceeding twenty-five thousand rupees has been transferred by a person (hereafter in this Chapter referred to as the transferor) to another person (hereafter in this Chapter referred to as the transferee) for an apparent consideration which is less than the fair market value of the property

and that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of—

- (a) facilitating the reduction or evasion of the liability of the transferor to pay tax under this Act in respect of any income arising from the transfer; or
- (b) facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act or the Wealth-Tax Act, 1957 (27 of 1957),

the competent authority may, subject to the provisions of this Chapter, initiate proceedings for the acquisition of such property under this Chapter:

Provided that before initiating such proceedings, the competent authority shall record his reasons for doing so:

Provided further that no such proceedings shall be initiated unless the competent authority has reason to believe that the fair market value of the property exceeds the apparent consideration therefor by more than fifteen per cent of such apparent consideration.

(2) In any proceedings under this Chapter in respect of any immovable property,—

- (a) where the fair market value of such property exceeds the apparent consideration therefor by more than twenty-five per cent of such apparent consideration, it shall be conclusive proof that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer;
- (b) where the property has been transferred for an apparent consideration which is less than its fair market value, it shall be presumed, unless the contrary is proved, that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1).

269D. Preliminary notice.—(1) The competent authority shall initiate proceedings for the acquisition, under this Chapter, of any immovable property referred to in section 269C by notice to that effect published in the Official Gazette:

Provided that no such proceedings shall be initiated in respect of any immovable property after the expiration of a period of six months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908 (16 of 1908):

Provided further that—

- (a) in a case where it is determined under sub-section (4) of section 269B by the competent authority who has initiated proceedings for the acquisition of any immovable property under this Chapter or by the Board that such competent authority has no jurisdiction to initiate such proceedings, the competent authority having jurisdiction may initiate such proceedings within—

- (i) the period of six months specified in the foregoing proviso; or
- (ii) a period of thirty days from the date of such determination,

whichever period expires later;

- (b) in a case where proceedings for the acquisition of any immovable property under this Chapter could

not be initiated during any period of time by reason of any injunction or order of any court prohibiting the initiation of such proceedings or preventing the examination of documents or other materials required to be examined for the purpose of determining whether such proceedings should be initiated, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded in computing the period during which such proceedings may be initiated under this sub-section.

(2) The competent authority shall—

(a) cause a notice under sub-section (1) in respect of any immovable property to be served on the transferor, the transferee, the person in occupation of the property, if the transferee is not in occupation thereof, and on every person whom the competent authority knows to be interested in the property;

(b) cause such notice to be published—

(i) in his office by affixing a copy thereof to a conspicuous place;

(ii) in the locality in which the immovable property to which it relates is situate, by affixing a copy thereof to a conspicuous part of the property and also by making known in such manner as may be prescribed the substance of such notice at convenient places in the said locality.

269E. *Objections.*—(1) Objections against the acquisition of the immovable property in respect of which a notice has been published in the Official Gazette under sub-section (1) of section 269D may be made—

(a) by the transferor or the transferee or any other person referred to in clause (a) of sub-section (2) of that section, within a period of forty-five days from the date of such publication or a period of thirty days from the date of service of notice on such person under the said clause, whichever period expires later;

(b) by any other person interested in such immovable property, within forty-five days from the date of such publication.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing.

(3) For the removal of doubts, it is hereby declared that objection may be made under sub-section (1) that the provisions of clause (a) of sub-section (2) of section 269C do not apply in relation to any immovable property on the ground that the fair market value of such property does not exceed the apparent consideration therefor by more than twenty-five per cent of such apparent consideration.

269F. *Hearing of objections.*—(1) The competent authority shall fix a day and place for the hearing of the objections made under section 269E against the acquisition under this Chapter of any immovable property, and shall give notice of the same to every person who has made such objection:

Provided that such notice shall also be given to the transferee of such property even if he has not made any such objection.

(2) Every person to whom a notice is given under sub-section (1) shall have the right to be heard at the hearing of the objections.

(3) The competent authority shall have the power to adjourn the hearing of the objections from time to time.

(4) The competent authority may, before disposing of the objections, make such further inquiry as he thinks fit.

(5) The decision of the competent authority in respect of the objections heard shall be in writing and shall state the reasons for the decision with respect to each objection.

(6) If after hearing the objections, if any, and after taking into account all the relevant material on record, the competent authority is satisfied that,—

(a) the immovable property to which the proceedings relate is of a fair market value exceeding twenty-five thousand rupees;

(b) the fair market value of such property exceeds the apparent consideration therefor by more than fifteen per cent of such apparent consideration; and

(c) the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1) of section 269C,

he may, after obtaining the approval of the Commissioner make an order for the acquisition of the property under this Chapter.

Explanation.—In this sub-section, “Commissioner”, in relation to a competent authority, means such Commissioner as may, by general or special order in writing, specify in this behalf.

(7) If the competent authority is not satisfied as provided in sub-section (6), he shall, by order in writing, declare that the property will not be acquired under this Chapter.

(8) The competent authority shall serve a copy of his order under sub-section (6) or sub-section (7), as the case may be, on the transferor, the transferee and on every person who has made objections against such acquisition under section 269E.

(9) In any proceedings under this Chapter in respect of any immovable property, no objection shall be entertained on the ground that although the apparent consideration for the property is less than the fair market value of the property on the date of the execution of the instrument of transfer, the consideration as agreed to between the parties has been truly stated in the instrument of transfer because such consideration was agreed to having regard to the price that such property would have ordinarily fetched on sale in the open market on the date of the conclusion of the agreement to sell the property, except where such agreement has been registered under the Registration Act, 1908 (16 of 1908).

269G. *Appeal against order for acquisition.*—(1) An appeal may be preferred to the Appellate Tribunal against the order for the acquisition of any immovable property made by the competent authority under section 269F.

(a) by the transferor or the transferee or any other person referred to in sub-section (8) of that section, within a period of forty-five days from the date of such order or a period of thirty days from the date of service of a copy of the order on such person under the said sub-section, whichever period expires later;

(b) by any other person interested in such immovable property, within forty-five days from the date

of such order:

Provided that the Appellate Tribunal may, on an application made in this behalf before the expiry of the said period of forty-five days or, as the case may be, thirty days, permit, by order, the appeal to be presented within such further period as may be specified therein if the applicant satisfies the Appellate Tribunal that he has sufficient cause for not being able to present the appeal within the said period of forty-five days or, as the case may be, thirty days.

(2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred and twenty-five rupees.

(3) The Appellate Tribunal shall fix a day and place for the hearing of the appeal and shall give notice of the same to the appellant and to the competent authority.

(4) The Appellate Tribunal may, after giving the appellant and the competent authority an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal may, at any time within thirty days from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4) and shall make such amendment if the mistake is brought to its notice by the appellant or the competent authority:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

(6) The Appellate Tribunal shall send a copy of any orders passed under this section to the appellant and to the Commissioner.

(7) Save as provided in section 269H, orders passed by the Appellate Tribunal on appeal shall be final.

(8) Every appeal under this section shall be disposed of as expeditiously as possible and endeavour shall be made to dispose of every such appeal within ninety days from the date on which it is presented.

(9) The provisions of section 255 (except sub-section (3) thereof) shall, so far as may be, apply in relation to the powers, functions and proceedings of the Appellate Tribunal under this section as they apply in relation to the powers, functions and proceedings of the Appellate Tribunal under Chapter XX.

269H. Appeal to High Court.—(1) The Commissioner or any person aggrieved by any order of the Appellate Tribunal under section 269G may, within sixty days of the date on which he is served with notice of such order under that section, prefer an appeal against such order to the High Court on any question of law:

Provided that the High Court may, on an application made in this behalf before the expiry of the said period of sixty days, permit, by order, the appeal to be presented within such further period as may be specified therein, if the applicant satisfies the High Court that he has sufficient cause for not being able to present the appeal within the said period of sixty days.

(2) An appeal under sub-section (1) shall be heard by a Bench of not less than two Judges of the High Court and the provisions of section 259 shall apply in relation to any such appeal as they apply in relation to a case referred to the High Court under section 256.

(3) The costs of the appeal shall be in the discretion of the High Court.

269I. Vesting of property in Central Government.—(1) As soon as may be after the order for acquisition of any

immovable property made under sub-section (6) of section 269F becomes final, the competent authority may, by notice in writing, order any person who may be in possession of the immovable property to surrender or deliver possession thereof to the competent authority or any other person duly authorised in writing by the competent authority in this behalf, within thirty days of the date of the service of the notice.

Explanation.—For the purposes of this sub-section, an order for the acquisition of any immovable property (hereafter in this *Explanation* referred to as the order for acquisition) made under sub-section (6) of section 269F becomes final,—

(a) in a case where the order for acquisition is not made the subject of an appeal to the Appellate Tribunal under section 269G, upon the expiry of the period during which such appeal may be presented under that section;

(b) in a case where the order for acquisition is made the subject of an appeal to the Appellate Tribunal under section 269G,—

(i) if the order for acquisition is confirmed by the Appellate Tribunal and the order of the Appellate Tribunal is not made the subject of an appeal to the High Court under section 269H, upon the expiry of the period during which such appeal may be presented under that section to the High Court;

(ii) if the order of the Appellate Tribunal is made the subject of an appeal to the High Court under section 269H, upon the confirmation of the order for acquisition by the High Court.

(2) If any person refuses or fails to comply with the notice under sub-section (1), the competent authority or other person duly authorised by the competent authority under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(4) When the possession of the immovable property is surrendered or delivered under sub-section (1) to the competent authority or person duly authorised by him in that behalf or, as the case may be, when the possession thereof is taken under sub-section (2) or sub-section (3) by such authority or person, the property shall vest absolutely in the Central Government free from all encumbrances:

Provided that nothing in this sub-section shall operate to discharge the transferee or any other person (not being the Central Government) from liability in respect of such encumbrances and, notwithstanding anything contained in any other law, such liability may be enforced against the transferee or such other person by a suit for damages.

269J. Compensation.—(1) Where any immovable property is acquired under this Chapter, the Central Government shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of the apparent consideration for its transfer and fifteen per cent of the said amount.

(2) Notwithstanding anything contained in sub-section (1);

(a) where, after the transfer to the transferee of the property referred to in that sub-section but before the vesting of the property in the Central Government, the property has been damaged (otherwise than as a result of normal wear and tear), the compensation payable under that sub-section shall be reduced by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount that may have to be expended for restoring the property to the condition in which it was at the time of such transfer;

(b) where, after the transfer of such property to the transferee but before the date of publication in the Official Gazette of the notice in respect of such property under sub-section (1) of section 269D, any improvements have been made to the property, whether by way of addition or alteration or in any other manner, the compensation payable in respect of such property under sub-section (1) shall be increased by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount spent for making such improvements.

(3) Every reference under clause (a) or clause (b) of sub-section (2) shall be made within thirty days of the date on which the immovable property to which it relates becomes vested in the Central Government or within such further period as the court may, on an application made in this behalf before the expiry of the said period and on being satisfied that there is sufficient cause for doing so, allow and such reference shall state clearly the compensation payable under sub-section (1) in respect of the immovable property and the amount by which, according to the estimate of the competent authority, such compensation shall be reduced under clause (a) or, as the case may be increased under clause (b) of sub-section (2).

(4) The amount by which the compensation payable under sub-section (1) in respect of any immovable property acquired under this Chapter falls short of the amount which would have been payable as compensation if that property had been acquired under the Land Acquisition Act, 1894 (1 of 1894), after the issue of a preliminary notice under section 4 of that Act on the date of publication in the Official Gazette of the notice in respect of the property under sub-section (1) of section 269D, shall be deemed to have been realised by the Central Government as a penalty from the transferee for being a party to a transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1) of section 269C, and no penalty shall be levied for any assessment year on the transferee—

(a) under clause (iii) of sub-section (1) of section 271, for concealing the particulars or furnishing inaccurate particulars of so much of his income as is utilised by him for paying to the transferor, by way of consideration for the property, any

amount in excess of the apparent consideration for the property, notwithstanding that such amount is included in the income of the transferee;

(b) under clause (iii) of sub-section (1) of section 18 of the Wealth-tax Act, 1957 (27 of 1957), for concealing the particulars or furnishing inaccurate particulars of so much of his assets as are utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such assets are included in the net wealth of the transferee

269K. *Payment or deposit of compensation.*—(1) The amount of compensation payable in accordance with the provisions of section 269J for the acquisition of any immovable property shall be tendered to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Central Government under sub-section (4) of section 269I:

Provided that in any case where a reference is or has to be made under sub-section (2) of section 269J to the court for the determination of the amount by which the compensation payable under sub-section (1) of that section shall be reduced or increased, the amount of such compensation as reduced or increased by the amount estimated in that behalf by the competent authority for the purposes of such reference shall be tendered as aforesaid.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises to the apportionment of the compensation amongst persons claiming to be entitled thereto, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer such dispute for the decision of the court and the decision of the court thereon shall be final.

(3) Notwithstanding anything contained in sub-section (1), if the persons entitled to compensation do not consent to receive it, or if there is no person competent to alienate the immovable property, or if there is any dispute as to the title to receive the compensation, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer the matter for the decision of the court:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the compensation for any immovable property acquired under this Chapter to pay the same to the person lawfully entitled thereto.

(4) If the Central Government fails to tender under sub-section (1) or deposit under sub-section (2) or sub-section (3) the whole or any part of the compensation required to be tendered or deposited thereunder within thirty days of the date on which the immovable property to which the compensation relates becomes vested in the Central Government under sub-section (4) of section 269I, the Central Government shall be liable to pay simple interest at the rate of twelve per cent per annum reckoned from the day immediately following the date of expiry of the said period up to the date on which it so tenders or deposits such compensation or, as the case may be, such part of the compensation.

(5) Where any amount of compensation (including interest, if any, thereon) has been deposited in the court under this section, the court may, either of its own motion or on an application made by or on behalf of any party

interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be.

269L. Assistance by Valuation Officers.—(1) The competent authority may,—

(a) for the purpose of initiating proceedings for the acquisition of any immovable property under section 269C or for the purpose of making an order under section 269F in respect of any immovable property, require a Valuation Officer to determine the fair market value of such property and report the same to him;

(b) for the purpose of estimating the amount by which the compensation payable under sub-section (1) of section 269J in respect of any immovable property may be reduced or, as the case may be, increased under clause (a) or clause (b) or sub-section (2) of that section, require the Valuation Officer to make such estimate and report the same to him.

(2) The Valuation Officer to whom a reference is made under clause (a) or clause (b) of sub-section (1) shall, for the purpose of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957 (27 of 1957).

(3) If in an appeal under section 269G against the order for acquisition of any immovable property, the fair market value of such property is in dispute, the Appellate Tribunal shall, on a request being made in this behalf by the competent authority, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the competent authority.

Explanation.—In this section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

269M. Powers of competent authority.—The competent authority shall have, for the purposes of this Chapter, all the powers that a Commissioner has, for the purposes of this Act, under section 131.

269N. Rectification of mistakes.—With a view to rectifying any mistake apparent from the record, the competent authority may amend any order made by him under this Chapter at any time before the time for presenting an appeal against such order has expired, either on his own motion or on the mistake being brought to his notice by any person affected by the order:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

269O. Appearance by authorised representative or registered valuer.—Any person who is entitled or required to attend before a competent authority or the Appellate Tribunal in any proceeding under this Chapter, otherwise than when required to attend personally for examination on oath or affirmation, may attend—

(a) by an authorised representative in connection with any matter;

(b) by a registered valuer in connection with any matter relating to the valuation of any immovable

property for the purposes of this Chapter or the estimation of the amount of by which the compensation payable under sub-section (1) of section 269J for the acquisition of any immovable property may be reduced or, as the case may be, increased in accordance with the provisions of clause (a) or clause (b) of sub-section (2) of that section.

Explanation.—In this section,—

(i) “authorised representative” has the same meaning as in section 288;

(ii) “registered valuer” has the same meaning as in clause (aaa) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

269P. Statement to be furnished in respect of transfers of immovable property.—(1) Notwithstanding anything contained in any other law for the time being in force, no registering officer appointed under the Registration Act, 1908 (16 of 1908), shall register any document which purports to transfer any immovable property belonging to any person unless a statement in duplicate in respect of such transfer, in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed, is furnished to him along with the instrument of transfer.

(2) The registering officer shall, at the end of every fortnight, forward to the competent authority,—

(a) one set of the statements received by him under sub-section (1) during the fortnight; and

(b) a return in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed in respect of documents of the nature referred to in sub-section (1) which have been registered by him during the fortnight.

269Q. Chapter not to apply to transfers to relatives.—The provisions of this Chapter shall not apply to or in relation to any transfer of immovable property made by a person to his relative on account of natural love and affection for a consideration which is less than its fair market value if a recital to that effect is made in the instrument of transfer.

269R. Properties liable for acquisition under this Chapter not to be acquired under other laws.—Notwithstanding anything contained in the land Acquisition Act, 1894 (1 of 1894), or any corresponding law for the time being in force, no immovable property referred to in section 269C shall be acquired for any purpose of the Union under that Act or such law unless the time for initiation of proceedings for the acquisition of such property under this Chapter has expired without such proceedings having been initiated or unless the competent authority has declared that such property will not be acquired under this Chapter.

269S. Chapter not to extend to State of Jammu and Kashmir.—The provisions of this Chapter shall not extend to the State of Jammu and Kashmir.

5. Insertion of new section 281A.—In the Income-tax Act, after section 281, the following section shall be inserted, namely:—

“281A. **Effect of failure to furnish information in respect of properties held benami.**—(1) No suit to enforce any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be instituted in any court by or on

behalf of a person (hereafter in this section referred to as the claimant) claiming to be the real owner of such property unless,—

- (a) the income, if any, from such property has been disclosed in any return of income furnished by the claimant under this Act; or
- (b) such property has been disclosed in any return of net wealth furnished by the claimant under the Wealth-tax Act, 1957 (27 of 1957); or
- (c) notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant to the Income-tax Officer.

(2) The Income-tax Officer shall, on an application made by any person in the prescribed manner and on payment of the prescribed fees, issue for the purposes of a suit referred to in sub-section (1), relevant extracts from the return furnished by such person under this Act or the Wealth-tax Act, 1957 (27 of 1957), or a certified copy of any notice given by such person under clause (c) of sub-section (1), within fourteen days from the date of receipt of the application therefor.

(3) This section shall not apply to any suit of a value not exceeding two thousand rupees which is tried by,—

- (a) a Court of Small Causes constituted under the Presidency Small Cause Courts Act, 1882 (15 of 1882), or the Provincial Small Cause Courts Act, 1887 (9 of 1887); or
- (b) a Court invested with the jurisdiction of a Court of Small Causes by or under any enactment for the time being in force, in the exercise of such jurisdiction.”

6. *Insertion of new section 287A.*—In the Income-tax Act, after section 287, the following section shall be inserted, namely:—

‘287A. *Appearance by registered valuer in certain matters.*—Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer.

Explanation.—In this section, “registered valuer” has the same meaning as in clause (oaa) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).’

CHAPTER III

(AMENDMENTS TO THE WEALTH-TAX ACT, 1957)

7. *Amendment of section 2.*—In section 2 of the Wealth-tax Act, 1957 (27 of 1957), (hereinafter referred to as the Wealth-tax Act),—

(a) after clause (oa), the following clause shall be inserted, namely:—

‘(oaa) “registered valuer” means a person registered as a valuer under section 34AB;’;

(b) for clause (r), the following clause shall be substituted, namely:—

‘(r) “Valuation Officer” means a person appointed as a Valuation Officer under section 12A, and includes a Regional Valuation Officer, a District Valuation Officer and an Assistant Valuation Officer.”

8. *Amendment of section 7.*—In section 7 of the Wealth-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (1), where the valuation of any asset is referred by the Wealth-tax Officer to the Valuation Officer under section 16A, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.”

9. *Insertion of new section 12A.*—After section 12 of the Wealth-tax Act, the following section shall be inserted, namely:—

“12A. *Appointment of Valuation Officers.*—(1) The Central Government may appoint as many Valuation Officers as it thinks fit.

(2) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a wealth-tax authority may appoint as many overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.”

10. *Insertion of new section 16A.*—After section 16 of the Wealth-tax Act, the following section shall be inserted, namely:—

“16A. *Reference to Valuation Officer.*—(1) For the purpose of making an assessment (including an assessment in respect of any assessment year commencing before the date of coming into force of this section) under this Act, the Wealth-tax Officer may refer the valuation of any asset to a Valuation Officer—

(a) in a case where the value of the asset as returned is in accordance with the estimate made by a registered valuer, if the Wealth-tax Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Wealth-tax Officer is of opinion—

(i) that the fair market value of the asset exceeds the value of the asset as returned by more than such percentage of the value of the asset as returned or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do.

(2) For the purpose of estimating the value of any asset in pursuance of a reference under sub-section (1), the Valuation Officer may serve on the assessee notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Valuation Officer may require.

(3) Where the Valuation Officer is of opinion that the value of the asset has been correctly declared in the return made by the assessee under section 14 or section 15, he shall pass an order in writing to that effect and send a copy of his order to the Wealth-tax Officer and to the assessee.

(4) Where the Valuation Officer is of opinion that the value of the asset is higher than the value declared in the return made by the assessee under section 14 or section 15, or where the asset is not disclosed

or the value of the asset is not declared in such return or where no such return has been made, the Valuation Officer shall serve a notice on the assessee intimating the value which he proposes to estimate and giving the assessee an opportunity to state, on a date to be specified in the notice, his objections either in person or in writing before the Valuation Officer and to produce or cause to be produced on that date such evidence as the assessee may rely in support of his objections.

- (5) On the date specified in the notice under sub-section (4), or as soon thereafter as may be, after hearing such evidence as the assessee may produce and after considering such evidence as the Valuation Officer may require on any specified points and after taking into account all relevant material which he has gathered, the Valuation Officer shall, by order in writing, estimate the value of the asset and send a copy of his order to the Wealth-tax Officer and to the assessee.
- (6) On receipt of the order under sub-section (3) or sub-section (5) from the Valuation Officer, the Wealth-tax Officer shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer."

11. *Amendment of section 23.*—In section 23 of the Wealth-tax Act,—

- (a) in sub-section (1),—
- (i) after clause (h) the following clause shall be inserted, namely:—
- "(ha) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section; or";
- (ii) in clause (i), for the words "Wealth-tax Officer", the words "Wealth-tax Officer or Valuation Officer" shall be substituted;
- (b) after sub-section (3), the following sub-section shall be inserted, namely:—
- "(3A) If the valuation of any asset is objected to in an appeal under clause (a) of sub-section (1), the Appellate Assistant Commissioner shall,—
- (a) in a case where such valuation has been made by a Valuation Officer under section 16A, give such Valuation Officer an opportunity of being heard;
- (b) in any other case, on a request being made in this behalf by the Wealth-tax Officer give an opportunity of being heard to any Valuation Officer nominated for the purpose by the Wealth-tax Officer.";
- (c) in sub-section (4), in clause (b), for the words "Wealth-tax Officer", the words "Wealth-tax Officer or, as the case may be, the Valuation Officer" shall be substituted.

12. *Amendment of section 24*—In section 24 of the Wealth-tax Act,—

- (a) in sub-section (5), for the words "Provided that", the following shall be substituted, namely:—
- "Provided that if the valuation of any asset is objected to, the Appellate Tribunal shall—
- (a) in a case where such valuation has been made by a Valuation Officer under section 16A

also give such Valuation Officer an opportunity of being heard;

- (b) in any other case, on a request being made in this behalf by the Wealth-tax Officer, give an opportunity of being heard also to any Valuation Officer nominated for the purpose by the Wealth-tax Officer:
- Provided further that";

(b) sub-sections (6), (7), (8), (8A) and (8B) shall be omitted.

13. *Amendment of section 26.*—In section 26 of the Wealth-tax Act, in sub-section (3), for the words, bracketes and figures "sub-sections (3) and (5) to (10) inclusive" the words, bracketes and figures "sub-sections (3), (5), (9) and (10)" shall be substituted.

14. *Insertion of new Chapter VII B.*—In the Wealth-tax Act, after Chapter VIIA, the following Chapter shall be inserted, namely:—

"CHAPTER VIIB REGISTERED VALUERS

34AA. *Appearance by registered valuers.*—Notwithstanding anything contained in this Act, any assessee who is entitled to or required to attend before any Wealth-tax Authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer.

34AB. *Registration of valuers.*—(1) The Board shall maintain a register to be called the Register of Valuers in which shall be entered the names and addresses of persons registered under sub-section (2) as valuers.

(2) Any person who possesses the qualifications prescribed in this behalf may apply to the Board in the prescribed form for being registered as a valuer under this section:

Provided that different qualifications may be prescribed for valuers of different classes of assets.

(3) Every application under sub-section (2) shall be verified in the prescribed manner, shall be accompanied by such fees as may be prescribed and shall contain a declaration to the effect that the applicant will—

- (i) make an impartial and true valuation of any asset which he may be required to value;
- (ii) furnish a report of such valuation in the prescribed form;
- (iii) charge fees at a rate not exceeding the rate or rates prescribed in this behalf;
- (iv) not undertake valuation of any asset in which he has a direct or indirect interest.

(4) The report of valuation of any asset by a registered valuer shall be in the prescribed form and be verified in the prescribed manner.

34AC. *Restrictions on practice as registered valuer.*—(1) No person, either alone or in partnership with any other person, shall practise, describe himself or hold himself out as a registered valuer for the purposes of this Act or permit himself to be so described or held out; unless he is registered as a valuer or, as the case may be, unless he and all his partners are so registered under this Chapter.

(2) No company or other body corporate shall practice, describe itself or hold itself out as registered valuers for the purposes of this Act or permit itself to be so described or held out.

34AD. Removal from register of names of valuers and restoration.—(1) The Board may remove the name of any person from the register of valuers where it is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it thinks fit to make,—

- (i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact;
- (ii) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which, in the opinion of the Board, renders him unfit to be kept in the register.

(2) The Board may, on application and on sufficient cause being shown, restore to the register the name of any person removed therefrom."

15. Amendment of section 35.—In section 35 of the Wealth-tax Act,—

- (a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) the Valuation Officer may amend any order passed by him under section 16A;";

- (b) in sub-section (3) in clause (b), for the words "Appellate Assistant Commissioner", the words "Valuation Officer or the Appellate Assistant Commissioner" shall be substituted;

- (c) after sub-section (6), the following sub-section shall be inserted, namely:—

"(6A) Where any amendment made by the Valuation Officer under clause (aa) of sub-section (1) has the effect of enhancing the valuation of any asset, he shall send a copy of his order to the Wealth-tax Officer who shall thereafter proceed to amend the order of assessment in conformity with the order of the Valuation Officer and the provisions of sub-section (6) shall apply accordingly."

- (d) after sub-section (7), the following sub-section shall be inserted, namely:—

"(7A) Notwithstanding anything contained in sub-section (7), where the valuation of any asset has been enhanced by the Valuation Officer under this section, the consequential amendment to the order of assessment may be made by the Wealth-tax Officer at any time before the expiry of one year from the date of the order of the Valuation Officer under this section."

16. Amendment of section 36.—In section 36 of the Wealth-tax Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

"(2B) If a person makes a statement in a verification mentioned in section 34AB which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment which may extend to six months or with fine or with both."

17. Amendment of section 37.—In section 37 of the Wealth-tax Act,—

- (a) in sub-section (1), for the words "The Wealth-tax Officer," the words "The Wealth-tax Officer, Valuation Officer," shall be substituted;
- (b) in sub-section (3), in the proviso for the words "a Wealth-tax Officer", the words "a Wealth-tax Officer or a Valuation Officer" shall be substituted.

18. Insertion of new section 38A.—After section 38 of the Wealth-tax Act, the following section shall be inserted, namely:—

"38A. Powers of Valuation Officer, etc.—(1) For the purposes of this Act, a Valuation Officer or any overseer, surveyor or assessor authorised by him in this behalf may, subject to any rules made in this behalf and at such reasonable times as may be prescribed,—

- (a) enter any land within the limits of the area assigned to the Valuation Officer, or
- (b) enter any land, building or other place belonging to or occupied by any person in connection with whose assessment a reference has been made under section 16A to the Valuation Officer, or
- (c) inspect any asset in respect of which a reference under section 16A has been made to the Valuation Officer,

and require any person in charge of, or in occupation or possession of, such land, building or other place or assets to afford him the necessary facility to survey or inspect such land, building or other place or asset or estimate its value or inspect any books of account, document or record which may be relevant for the valuation of such land, building or other place or asset and gather other particulars relating to such land, building or other place or asset:

Provided that no Valuation Officer, overseer, surveyor or assessor shall enter any building or place referred to in clause (b) inspect any asset referred to in clause (c) (unless with the consent of the person in charge of, or in occupation or possession of, such building, place or asset) without previously giving to such person at least two days' notice in writing of his intention to do so.

(2) If a person who, under sub-section (1), is required to afford any facility to the Valuation Officer or the overseer, surveyor or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers under sub-sections (1) and (2) of section 37 for enforcing compliance of the requirements made."

19. Amendment of section 46.—In section 46 of the Wealth-tax Act, in sub-section (2), for clause (e), the following clauses shall be substituted, namely:—

- "(e) the areas within which Valuation Officer may exercise jurisdiction;
- (ee) the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their powers under sub-section (1) of section 38A;".

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

20. Amendment of section 2.—In section 2 of the Gift-tax Act, 1958 (18 of 1958), (hereinafter referred to as the Gift-tax Act), clause (xxv) shall be omitted.

21. Amendment of section 15.—In section 15 of the Gift-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

- (6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act, the Gift-tax Officer may refer to a Valuation Officer, the valuation of any property transferred by way of gift—
- (a) in a case where the value of the property as returned is in accordance with the estimate

ma... registered valuer, if the Gift-tax Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Gift-tax Officer is of opinion—

(i) that the fair market value of the property exceeds the value of the property as returned by more than such percentage of the value of the property as returned or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the property and other relevant circumstances, it is necessary so to do;

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6 of section 16A, clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this sub-section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).’

22. *Amendment of section 23.*—In section 23 of the Gift-tax Act, sub-sections (6), (7) and (8) shall be omitted.

23. *Amendment of section 25.*—In section 25 of the Gift-tax Act, in sub-section (3), for the words, brackets and figures “sub-sections (3) and (5) to (10) inclusive”, the words, brackets and figures “sub-sections (3), (5), (9) and (10)” shall be substituted.

24.—*Insertion of new section 43A.*—In the Gift-tax Act, after section 43, the following section shall be inserted, namely:—

‘43A. *Appearance by registered valuer in certain matters.*—Any assessee who is entitled or required to attend before any Gift-tax Authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer.

Explanation.—In this section, “registered valuer” has the same meaning as in clause (ouu) or section 2 of the Wealth-tax Act, 1957 (27 of 1957).’

CHAPTER V MISCELLANEOUS

25. *Saving and special provision.*—(1) Notwithstanding the omission of sub-section (1A) of section 254 of the Income-tax Act, 1961 (43 of 1961), by section 3 of this Act, every requisition by an appellant for the making of a reference under that sub-section and every reference made under that sub-section before such omission shall be dealt with as if the said sub-section had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

(2) Notwithstanding the omission of sub-sections (6), (7), (8), (8A) and (8B) of section 24 of the Wealth-tax Act, 1957 (27 of 1957), by clause (b) of section 12 of this Act, every requisition by an appellant for the making of a reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-

sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

(3) Notwithstanding the omission of sub-sections (6), (7) and (8) of section 23 of the Gift-tax Act, 1958 (18 of 1958), by section 22 of this Act, every requisition by an appellant for the making of reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission.

Assented to on 3-9-1972

THE INSECTICIDES (AMENDMENT) ACT, 1972 (ACT NO. 46 OF 1972)

AN
ACT

to amend the Insecticides Act, 1968

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Insecticides (Amendment) Act, 1972.

(2) It shall be deemed to have come into force on the 1st day of August, 1971:

2. *Amendment of section 9.*—In sub-section (1) of section 9 of the Insecticides Act, 1968 (16 of 1968), (hereinafter referred to as the principal Act),—

(a) in the proviso, for the words “six months”, the words “seventeen months” shall be substituted;

(b) after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that where any person referred to in the preceding proviso fails to make an application under that proviso within the period specified therein, he may make such application at any time thereafter on payment of a penalty of one hundred rupees for every month or part thereof after the expiry of such period for the registration of each such insecticide.”

3. *Amendment of section 13.*—In the proviso to sub-section (1) of section 13 of the principal Act, for the words “three months”, the words “seventeen months” shall be substituted.

4. *Amendment of section 17.*—In the proviso to sub-section (1) of section 17 of the principal Act, for the words “under the proviso”, the words “under any of the provisos” shall be substituted.

5. *Amendment of section 18.*—In section 18 of the principal Act, in the *Explanation*, for the words “under the proviso”, the words “under any of the provisos” shall be substituted.

Assented to on 3-9-1972

THE RICE-MILLING INDUSTRY (REGULATION) AMENDMENT ACT, 1972 (ACT NO. 47 OF 1972)

AN
ACT

further to amend the Rice-Milling Industry (Regulation) Act, 1958.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Rice-Milling Industry (Regulation)

Amendment Act, 1972.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 1.*—In section 2 of the Rice-Milling Industry (Regulation) Act, 1958 (21 of 1958), (hereinafter referred to as the principal Act),—

(i) in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted;

(ii) in sub-section (3), the following proviso shall be added, namely:—

"Provided that it shall come into force in the State of Jammu and Kashmir on the date of commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1972."

3. *Insertion of new section 2A.*—In the principal Act, after section 2, the following section shall be inserted, namely:—

'2A. *Rules of construction in relation to application of Act to Jammu and Kashmir.*—(1) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as to reference to the corresponding law, if any, in force in that State.

(2) Any reference in any provision of this Act (except section 3A) to the commencement of this Act or the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1968 (29 of 1968), shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1972.

(3) Section 3A shall have effect in relation to the State of Jammu and Kashmir subject to the omission of the portion beginning with the words "subject to the modification" and ending with the words, brackets and figures "the Rice-Milling Industry (Regulation) amendment Act, 1968."

Assented to on 3-9-1972

THE DELHI UNIVERSITY-(AMENDMENT) ACT, 1972

(ACT NO. 48 OF 1972)

AN
ACT

further to amend the Delhi University Act, 1922

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Delhi University (Amendment) Act, 1972.

(2) It shall be deemed to have come into force on the 22nd day of June, 1972.

2. *Amendment of section 4.*—In section 4 of the Delhi University Act, 1922 (8 of 1922), (hereinafter referred to as the principal Act), after clause (9), the following clauses shall be inserted, namely:—

"(9A) to declare, with the consent of the colleges concerned, in the manner specified by the Academic Council, colleges conducting courses of study in the Faculties of Medicine, Technology, Music or Fine Arts, as autonomous colleges:

Provided that the extent of the autonomy which each such college may have, and the matters in relation to which it may exercise such autonomy, shall be such as may be prescribed by the Statutes;

(9B) to set up one or more College Administrative Councils for two or more colleges with such composition, powers and functions as may be laid down in the Statutes;"

3. *Amendment of section 28.*—In section 28 of the principal Act, after clause (h), the following clauses shall be inserted, namely:—

"(hh) the extent of the autonomy which a college, declared as an autonomous college under clause (9A) of section 4, may have and the matters in relation to which such autonomy may be exercised;

(hhh) the composition, powers and functions of College Administrative Councils;"

4. *Amendment of section 29.*—In section 29 of the principal Act, for sub-section (2), (3), (4), (5) and (6), the following sub-sections shall be substituted, namely:—

"(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes:

Provided that the Executive Council shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council:

Provided further that except with the prior concurrence of the Academic Council, the Executive Council shall not make, amend or repeal any Statute affecting all or any of the following matters, namely:—

(i) the constitution, powers and duties of the Academic Council, and the other powers which may be conferred, and duties which may be imposed on the Academic Council;

(ii) the authorities responsible for organising recognised teaching in connection with the University courses;

(iii) the withdrawal of Degrees, Diplomas, Certificates and other academic distinctions;

(iv) the establishment and abolition of Faculties, Departments Halls, Colleges and Institutions;

(v) the conditions under which Colleges and other Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(vi) the institution of Fellowships, Scholarships, Studentships, Exhibitions, Medals and Prizes;

(vii) the extent of the autonomy which a College may have and the matters in relation to which such autonomy may be exercised;

(viii) the composition, powers and functions of College Administrative Councils; and

(ix) the conditions on the fulfilment of which the teachers of Colleges and Institutions may be recognised as teachers of the University.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who

may sanction, disallow or return it to the Executive Council for further consideration.”

5. *Repeal and saving.*—(1) The Delhi University (Amendment) Ordinance, 1972 (5 of 1972), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act.

Assented to on 9-9-1972

THE ANTIQUITIES AND ART TREASURES ACT, 1972

(ACT NO. 52 OF 1972)

AN
ACT

to regulate the export trade in antiquities and art treasures, to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places and to provide for certain other matters connected therewith or incidental or ancillary thereto.

Enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and extent commencement.*—(1) This Act may be called the Antiquities and Art Treasures Act, 1972.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,

(a) “antiquity” includes—

(i) any coin, sculpture, painting, epigraph or other work of art or craftsmanship;

(ii) any article, object or thing detached from a building or cave;

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages;

(iv) any article, object or thing of historical interest;

(v) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years; and

(ii) any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years;

(b) “art treasure” means by human work of part, not being an antiquity, declared by the Central Government by notification in the Official Gazette, to be an art treasure for the purposes of this Act having regard to its artistic or aesthetic value:

Provided that no declaration under this clause shall be made in respect of any such work of art so long

as the author thereof is alive;

(c) “export” means taking out of India to a place outside India;

(d) “licensing officer” means an officer appointed as such under section 6;

(e) “registering officer” means an officer appointed as such under section 15;

(f) “prescribed” means prescribed by rules made under this Act.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

3. *Regulation of export trade in antiquities and art treasures.*—(1) On and from the commencement of this Act, it shall not be lawful for any person, other than the Central Government or any authority or agency authorized by the Central Government in this behalf, to export any antiquity or art treasure.

(2) Whenever the Central Government or any authority or agency referred to in sub-section (1) intends to export any antiquity or art treasure such export shall be made only under and in accordance with the terms and conditions of a permit issued for the purpose by such authority as may be prescribed.

4. *Application of Act 52 of 1962.*—The Customs Act, 1962, shall have effect in relation to all antiquities and art treasures, the export of which by any person (other than the Central Government or any authority or agency authorised by the Central Government) is prohibited under section 3 save in so far as that Act is inconsistent with the provisions of this Act and except that (notwithstanding anything contained in section 125 of that Act) any confiscation authorized under that Act shall be made unless the Central Government on an application made to it in this behalf, otherwise directs.

5. *Antiquities to be sold only under a licence.*—On and from the expiry of a period of two months of the commencement of this Act, no person shall, himself or by any other person on his behalf, carry on the business of selling or offering to sell any antiquity except under and in accordance with the terms and conditions of a licence granted under section 8.

Explanation.—In this section and in sections 7, 8, 12, 13, 14, 17 and 18 “antiquity” does not include ancient and historical records other than those declared by or under law made by Parliament to be of national importance.

6. *Appointment of licensing officers.*—The Central Government may, by notified order,—

(a) appoint such persons, being gazetted officer of Government, as it thinks fit, to be licensing officers for the purposes of this Act;

(b) define the limits of the area within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

7. *Application for licence.*—(1) Any person desiring to carry on, himself or by any other person on his behalf, the business of selling or offering to sell antiquities may make an application for the grant of a licence to the licensing officer having jurisdiction.

(2) Every application under sub-section (1) shall be made in such form and shall contain such particulars as may be prescribed.

8. *Grant of licence.*—(1) On receipt of an application for the grant of a licence under section 7, the licensing officer may, after holding such inquiry as he deems fit, grant a licence to the applicant having regard to the following factors, namely:—

- (a) the experience of the applicant with respect to trade in antiquities;
- (b) the village, town or city where the applicant intends to carry on business;
- (c) the number of persons already engaged in the business of selling, or offering for sale of, antiquities in the said village, town or city; and
- (d) such other factors as may be prescribed:

Provided that no licence shall be granted to the applicant if he is convicted of an offence punishable under the Antiquities (Export Control) Act, 1947 (31 of 1947), unless a period of ten years has elapsed since the date of the conviction.

(2) Every licence granted under this section shall be on payment of such fees as may be prescribed.

(3) Every licence granted under this section shall be for such period, subject to such conditions and in such form and shall contain such particulars, as may be prescribed.

(4) No application for the grant of a licence made under section 7 shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

9. *Renewal of licence.*—(1) A licence granted under section 8 may, on an application made by the licensee, be renewed by the licensing officer for such period and on payment of such fees as may be prescribed.

(2) No application made under this section shall be rejected unless the applicant has been given reasonable opportunity of being heard in the matter.

10. *Maintenance of records, photographs and registers by licensees.*—(1) Every holder of a licence granted under section 8 or renewed under section 9 shall maintain such records, photographs and registers, in such manner and containing such particulars, as may be prescribed.

(2) Every record, photograph and register maintained under sub-section (1) shall at all reasonable times, be open to inspection by the licensing officer or by any other gazetted officer of Government authorised in writing by the licensing officer in this behalf.

11. *Revocation, suspension and amendment of licences.*—(1) In the licensing officer is satisfied either on a reference made to him in this behalf or otherwise that—

- (a) a licence granted under section 8 has been obtained by misrepresentation of an essential fact, or
- (b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence.

(2) Subject to any rules that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 8.

12. *Persons whose licences have been revoked may sell antiquities to other licensees.*—Notwithstanding anything contained in section 5, any person whose licence has been revoked under section 11 may, after making a declaration before the licensing officer, within such period, in such form and in such manner, as may be prescribed, of all the antiquities in his ownership, control or possession immediately before such revocation, sell such antiquities to another person holding a valid licence under this Act:

Provided that no such antiquity shall be sold after the expiry of a period of six months from the date of revocation

of the licence.

13. *Power of Central Government to carry on the business of selling antiquities to the exclusion of others.*—(1) If the Central Government is of opinion that with a view to conserving antiquities or in the public interest it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare that with effect on and from such date as may be specified in the notification, the Central Government or any authority or agency authorised by the Central Government in this behalf shall alone be entitled to carry on the business of selling or offering for sale of antiquities.

(2) On the issue of a notification under b-section (1),—

(a) it shall not be lawful for any person, authority or agency, other than the Central Government or any authority or agency authorized by the Central Government, to carry on the business of selling or offering for sale any antiquity on and from the date specified therein;

(b) the provisions of this Act, in so far as they relate to the licensing of persons carrying on the business of selling or offering for sale of antiquities shall cease to have effect except as respects things done or omitted to be done before such cesser of operation and section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such cesser of operation as if those provisions had been repealed by a Central Act:

Provided that every licence granted under section 8 and in force on the date aforesaid shall, notwithstanding that the period specified therein has not expired, cease to be in force.

(3) Every person whose licence has ceased to be in force under the proviso to clause (b) of sub-section (2) shall, within such period, in such form and in such manner as may be prescribed, make a declaration before the licensing officer of all the antiquities in his ownership, control or possession immediately before the date specified in the notification issued under sub-section (1).

14. *Registration of antiquities.*—(1) The Central Government may, from time to time, by notification in the Official Gazette, specify those antiquities which shall be registered under this Act.

(2) In specifying the antiquities under sub-section (1) the Central Government shall have regard to the following factors, namely:—

- (i) the necessity for conserving the objects of art;
- (ii) the need to preserve such objects within India for the better appreciation of the cultural heritage of India;
- (iii) such other factors as will, or are likely to, contribute to the safeguarding of the cultural heritage of India.

(3) Every person who owns, controls or is in possession of any antiquity specified in the notification issued under sub-section (1) shall register such antiquity before the registering officer—

- (a) in the case of a person who owns, controls or possesses such antiquity on the date of issue of such notification, within three months of such date; and
- (b) in the case of any other person, within fifteen days of the date on which he comes into ownership, control or possession of such antiquity, and obtain a certificate in token of such registration.

15. *Appointment of registering officers.*—The Central Government may, by notified order,—

- (a) appoint such persons, as it thinks fit, to be registering officers for the purposes of this Act; and
- (b) define the limits of the area within which a registering officer shall exercise the powers conferred

on registering officers by or under this Act.

16. *Application for registration and grant of certificate of registration.*—(1) Every person required to register any antiquity before the registering officer under section 14 shall make an application to the registering officer for the grant of a certificate of registration.

(2) Every application under sub-section (1) shall be accompanied by such photographs of the antiquity which is to be registered and by such number of copies, not exceeding six, as may be prescribed and shall be made in such form and shall contain such particulars as may be prescribed.

(3) On receipt of an application under sub-section (1), the registering officer may, after holding such inquiry as, he deems fit, grant a certificate of registration containing such particulars as may be prescribed.

(4) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

17. *Transfer of ownership, etc., of antiquities to be intimated to the registering officer.*—Whenever any person transfers the ownership, control or possession of any antiquity specified in any notification issued under sub-section (1) of section 14, such person shall intimate, within such period and in such form as may be prescribed, the fact of such transfer to the registering officer.

18. *Provisions of sections 14, 16 and 17 not to apply in certain cases.*—Nothing in section 14 or section 16 or section 17 shall apply to any antiquity kept—

- (i) in a museum; or
- (ii) in an office; or
- (iii) in an archive; or
- (iv) in an educational or cultural institution, owned, controlled or managed by the Government.

19. *Power of Central Government to compulsorily acquire antiquities and art treasures.*—(1) If the Central Government is of opinion that it is desirable to preserve any antiquity or art treasure in a public place, that Government may make an order for the compulsory acquisition of such antiquity or art treasure.

(2) On the making of an order under sub-section (1) the Collector of the district in which such antiquity or art treasure is kept shall give notice to the owner thereof of the making of the decision of the Central Government to acquire the same and it shall be lawful for the Collector to take possession of such antiquity or art treasure, for which purpose the Collector may use such force as may be necessary.

(3) Where the owner of any antiquity or art treasure the possession of which has been taken over by the Collector under sub-section (2) objects to the taking over of such possession, he may, within a period of thirty days from the date on which such possession was taken over, make a representation to the Central Government putting forth his objections:

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the owner of such antiquity or art treasure was prevented by sufficient cause from making the representation in time.

(4) On receipt of any representation under sub-section (3), the Central Government, after making such inquiry as it deems fit and after giving to the objector an opportunity of being heard in the matter, shall, within a period of ninety days from the date of receipt of the representation, either rescind or confirm the order made by it under sub-section (1).

(5) Where any order made by the Central Government under sub-section (1) is rescinded under sub-section (4) the antiquity or art treasure shall be returned to the owner thereof without delay and at the expense of the Central Government.

(6) Where the order made by the Central Government under sub-section (1) is confirmed under sub-section (4) the antiquity or art treasure shall vest in the Central Government with effect from the date on which the possession thereof has been taken over by the Collector under sub-section (2).

(7) The power of compulsory acquisition conferred by this section shall not extend to any object, being an antiquity or art treasure, used for *bona fide* religious observances.

Explanation.—In this section, “public place” means any place which is open to the use of the public, whether on payment of fees or not, or whether it is actually used by the public or not.

20. *Payment of compensation for antiquities and art treasures compulsorily acquired under section 19.*—(1) Where any antiquity or art treasure is compulsorily acquired under section 19, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
 - (b) where no such agreement can be reached, the Central Government may appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;
 - (c) the Central Government may, in any particular case, nominate a person having expert knowledge, as to the nature of the antiquity or art treasure compulsorily acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;
 - (d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation;
 - (e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid and in making the award he shall have regard to the circumstances of each case and the provisions of sub-section (2);
 - (f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;
 - (g) nothing in the Arbitration Act, 1940 (10 of 1940), shall apply to arbitration under this section.
- (2) While determining the compensation under sub-section (1), the arbitrator shall have regard to the following factors, namely:—
- (i) the date or the period to which the antiquity or art treasure belongs;
 - (ii) the artistic, aesthetic, historical, architectural, archaeological or anthropological importance of the antiquity or art treasure;
 - (iii) the rarity of the antiquity or art treasure;
 - (iv) such other matters as are relevant to the dispute.

(3) The arbitrator appointed under sub-section (1), while holding arbitration proceedings under this section shall have all the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for the examination of witnesses.

21. Appeals against decisions of licensing officers and registering officers.—(1) Any person aggrieved by a decision of a licensing officer under section 8 or section 9 or section 11 or by a decision of a registering officer under section 16 may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to such authority as may be prescribed:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant any opportunity of being heard, pass such orders as it deems fit

22. Appeals against awards of arbitrator.—Any person aggrieved by an award of the arbitrator made under section 20 may, within thirty days from the date on which the award is communicated to him, prefer an appeal to the High Court within whose jurisdiction he resides:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by a sufficient cause from filing the appeal in time.

23. Powers of entry, search, seizure, etc.—(1) Any person, being an officer of Government, authorized in this behalf by the Central Government, may, with a view to securing compliance with the provisions of this Act or to satisfying himself that the provisions of this Act have been complied with—

- (i) enter and search any place;
- (ii) seize any antiquity or art treasure in respect of which he suspects that any provision of this Act has been, is being, or is about to be, contravened and thereafter take all measures necessary for securing the production of the antiquity or art treasure so seized in a court and for its safe custody, pending such production.

(2) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898 (5 of 1898), relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

24. Power to determine whether or not an article, etc., is antiquity or art treasure.—If any question arises whether any article, object or thing or manuscript, record or other document is or is not an antiquity or is or is not an art treasure for the purposes of this Act, it shall be referred to the Director General, Archaeological Survey of India, or to an officer not below the rank of a Director in the Archaeological Survey of India and authorized by the Director General, Archaeological Survey of India and the decision of the Director General, Archaeological Survey of India or such officer, as the case may be, on such question shall be final.

25. Penalty.—(1) If any person, himself or by any other person on his behalf, exports or attempts to export

any antiquity or art treasure in contravention of section 3, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962 (52 of 1962), as applied by section 4, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

(2) If any person contravenes the provisions of section 5 or section 12 or sub-section (2) or sub-section (3) of section 13, section 14 or section 17, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both and the antiquity in respect of which the offence has been committed shall be liable to confiscation.

(3) If any person prevents any licensing officer from inspecting any record, photograph or register maintained under section 10 or prevents any officer authorized by the Central Government under sub-section (1) of section 23 from entering into or searching any place under that sub-section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

26. Cognizance of offences.—(1) No prosecution for an offence under sub-section (1) of section 25 shall be instituted except by or with the sanction of such officer of Government as may be prescribed in this behalf.

(2) No court shall take cognizance of an offence punishable under sub-section (2) or sub-section (3) of section 25 except upon complaint in writing made by an officer generally or specially authorized in this behalf by the Central Government.

(3) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

27. Magistrate's power to impose enhanced penalties.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (5 of 1898), it shall be lawful for any Presidency Magistrate or any Magistrate of the First Class to pass any sentence under this Act in excess of his power under section 32 of the said Code.

28. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to, the company, for the conduct of the business to the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

29. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or is intended to be done under this Act.

30. *Application of other laws not barred.*—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Ancient Monuments Preservation Act, 1904 (7 of 1904), or the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), or any other law for the time being in force.

31. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the authority for issue of permit under sub-section (2) of section 3;
- (b) the form in which an application for the grant of a licence may be made under sub-section (1) of section 7 and the particulars which such application shall contain;
- (c) the factors to which regard may be had while granting a licence under sub-section (1) of section 8;
- (d) the fees on payment of which, the period for which, the conditions subject to which and the form in which a licence may be granted under sub-section (1) of section 8 and the particulars which such licence shall contain;
- (e) the fees on payment of which and the period for which a licence may be renewed under sub-section (1) of section 9;
- (f) the records, photographs and registers which are to be maintained under section 10 and the manner in which such records, photographs and registers shall be maintained and the particulars which such records, photographs and registers shall contain;
- (g) the nature of the photographs of the antiquity and the number of copies thereof which shall accompany an application for the grant of a certificate of registration to be made under sub-section (1) of section 16 and the form in which such application may be made and the particulars which such application shall contain;
- (h) the particulars which a certificate of registration granted under sub-section (3) of section 16 shall contain;
- (i) the authority to which an appeal may be preferred under sub-section (1) of section 21; and
- (j) any other matter which has to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification annulment shall without prejudice to the validity of anything previously done under that rule.

32. *Repeal.*—(1) The Antiquities (Export Control) Act, 1947 (3 of 1947), is hereby repealed.

(2) For the removal of doubts it is hereby declared that every licence issued under section 3 of the Act repealed under sub-section (1) and in force at the commencement of this Act shall, notwithstanding that the period specified therein has not expired, cease to be in force.

33. *Amendment of Act 24 of 1958.*—In the Ancient Monuments and Archaeological Sites and Remains Act, 1958,—

(i) in section 1, for sub-section (2), the following sub-section shall be substitute, namely:—

“(2) It extends to the whole of India.”;

(ii) after section 2, the following section shall be inserted, namely:—

“2A. *Construction of references to any law not in force in the State of Jammu and Kashmir.*—Any reference in this Act to any law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.”;

(iii) in section 23,—

(a) in sub-sections (2) and (4), for the words “compulsory purchase”, the words “compulsory acquisition” shall be substituted;

(b) in sub-section (3), for the word “compulsory purchase of any such antiquities at their market value”, the words “compulsory acquisition of any such antiquities” shall be substituted;

(iv) in section 26,—

(a) in sub-section (1), for the words “compulsory purchase of such antiquity at its market value”, the words “compulsory acquisition of such antiquity” and for the words “to be purchased”, the words “to be acquired” shall be substituted;

(b) in sub-sections (2) and (3), for the words “compulsory purchase”, the words “compulsory acquisition” shall be substituted;

(v) in section 28, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) For every antiquity in respect of which an order for compulsory acquisition has been made under sub-section (3) of section 23 or under sub-section (1) of section 26, there shall be paid compensation and the provisions of sections 20 and 22 of the Antiquities and Art Treasures Act, 1972 shall, so far as may be, apply in relation to the determination and payment of such compensation as they apply in relation to the determination and payment of compensation for any antiquity or art treasure compulsorily acquired under section 19 of that Act.”.

Assented to on 9-9-1972

THE WILD LIFE (PROTECTION) ACT, 1972

(ACT NO. 53 OF 1972)

AN
ACT

to provide for the protection of wild animals and birds and for matters connected therewith or ancillary or incidental thereto.

WHEREAS it is expedient to provide for the protection of wild animals and birds and for matters connected therewith or ancillary or incidental thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Consti-

ution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Manipur, Punjab, Rajasthan, Uttar Pradesh and West Bengal to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Wild Life (Protection) Act, 1972.

(2) It extends, in the first instance, to the whole of the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Manipur, Punjab, Rajasthan, Uttar Pradesh and West Bengal and to all the Union territories; and it shall also extend to such other State as may adopt this Act by resolution passed in that behalf in pursuance of clause (1) of article 252 of the Constitution.

(3) It shall come into force in a State or Union territory in which it extends, or may become extended in future, on such date as the Central Government may, by notification appoint, and different dates may be appointed for different provisions of this Act or for different States or Union territories.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (1) "animal" includes amphibians, birds, mammals and reptiles and their young, and also includes, in cases of birds and reptiles, their eggs;
- (2) "animal article" means an article made from any captive animal or wild animal, other than vermin, and includes an article or object in which the whole or any part of such animal has been used;
- (3) "big game" means any animal specified in Schedule III;
- (4) "Board" means the Wild Life Advisory Board constituted under sub-section (1) of section 6;
- (5) "captive animal" means any animal, specified in Schedule I, Schedule II, Schedule III or Schedule IV, which is captured or kept or bred in captivity;
- (6) "cattle" includes buffaloes, bulls, bullocks, camels, cows, domestic elephants, donkeys, goats, horses, mules, pigs and sheep and also includes their young;
- (7) "Chief Wild Life Warden" means the person appointed as such under clause (a) of sub-section (1) of section 4;
- (8) "closed area" means the area which is declared under sub-section (1) of section 37 of to be closed to hunting;
- (9) "Collector" means the chief officer in charge of the revenue administration of a district;
- (10) "commencement of this Act", in relation to—
(a) a State, means commencement of this Act in that State,
(b) any provision of this Act, means the commencement of the provision in the concerned State;
- (11) "dealer" means any person who carries on the business of buying and selling any captive animal, article, trophy, uncured trophy or meat;
- (12) "Director" means the person appointed as Director of Wild Life Preservation under clause (a) of sub-section (1) of section 3;
- (13) "game reserve" means an area declared under

section 36 to be a game reserve;

- (14) "Government property" means any property referred to in section 39;
- (15) "habitat" include land water or vegetation which is the natural home of any wild animal;
- (16) "hunting", with its grammatical variations and cognate expressions, includes,
(a) capturing, killing, poisoning, snaring and trapping of any wild animal and every attempt to do so,
(b) driving any wild animal for any of the purposes specified in sub-clause (a),
(c) injuring or destroying or taking any part of the body of any such animal or, in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;
- (17) "land" includes canals, creeks and other water channels, reservoirs, rivers, streams and lakes, whether artificial or natural, and also includes boulders and rocks;
- (18) "licence" means a licence granted under this Act;
- (19) "manufacturer" means a manufacturer of animal articles;
- (20) "meat" includes blood, bones, sinew, eggs, fat and flesh, whether raw or cooked, of any wild animal other than vermin;
- (21) "National Park" means an area declared, whether under section 35 or section 38, or deemed, under sub-section (3) of section 66, to be declared, as a National Park;
- (22) "notification" means a notification published in the Official Gazette;
- (23) "permit" means a permit granted under this Act or any rule made thereunder;
- (24) "person" includes a firm;
- (25) "prescribed" means prescribed by rules made under this Act;
- (26) "sanctuary" means an area declared, whether under section 18 or section 38, or deemed, under sub-section (3) of section 66, to be declared, as a wild life sanctuary;
- (27) "small game" means any animal specified in Schedule IV;
- (28) "special game" means any animal specified in Schedule II;
- (29) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;
- (30) "taxidermy", with its grammatical variations and cognate expressions, means the curing preparation or preservation of trophies;
- (31) "trophy" means the whole or any part of any captive animal or wild animal, other than vermin, which has been kept or preserved by any means, whether artificial or natural, and includes—
(a) rugs, skins and specimens of such animal mounted in whole or in part through a process of taxidermy, and
(b) antler, horn, rhinoceros horn, hair, feather, nail, tooth, musk, eggs and nests;
- (32) "uncured trophy" means the whole or any part of any captive animal or wild animal, other than vermin, which has not undergone a process of taxidermy, and includes a freshly killed wild animal;
- (33) "vehicle" means any conveyance used for movement on land, water or air and includes buffalo, bull, bullock, camel, bonkey, elephant, horse and mule;

- (34) "vermin" means any wild animal specified in Schedule V;
- (35) "weapon" includes ammunition; bows and arrows, explosives, firearms, hooks, knives, nets, poison, snares and traps and any instrument or apparatus capable of anaesthetizing, decoying, destroying, injuring or killing an animal;
- (36) "wild animal" means any animal found wild nature and includes any animal specified in Schedule I, Schedule II, Schedule III, Schedule IV or Schedule V, wherever found;
- (37) "wild life" includes any animal, bees, butterflies, crustacea, fish and moths; and aquatic or land vegetation which forms part of any habitat;
- (38) "Wild Life Warden" means the person appointed as such under clause (6) of sub-section (1) of section 4.

CHAPTER II

AUTHORITIES TO BE APPOINTED OR CONSTITUTED UNDER THE ACT

3. *Appointment of Director and other officers.*—(1) The Central Government may, for the purposes of this Act, appoint,—

- (a) A Director of Wild Life Preservation;
- (b) Assistant Directors of Wild Life Preservation; and such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Director shall be subject to such general or special directions, as the Central Government may, from time to time, give.

(3) The Assistant Directors of Wild Life Preservation and other officers and employees appointed under this section shall be subordinate to the Director.

4. *Appointment of Chief Wild Life Warden and other officers.*—(1) The State Government may, for the purposes of this Act, appoint,—

- (a) a Chief Wild Life Warden;
- (b) Wild Life Wardens; and
- (c) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Chief Wild Life Warden shall be subject to such general or special directions, as the State Government may, from time to time, give.

(3) The Wild Life Warden and other officers and employees appointed under this section shall be subordinate to the Chief Wild Life Warden.

5. *Power to delegate.*—(1) The Director may, with the previous approval of the Central Government, by order in writing, delegate all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

(2) The Chief Wild Life Warden may, with the previous approval of the State Government, by order in writing, delegate all or any of his powers and duties under this Act, except those under clause (a) of sub-section (1) of section 11, to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

(3) Subject to any general or special direction given or condition imposed by the Director or the Chief Wild Life Warden, any person, authorised by the Director or the Chief Wild Life Warden to exercise any powers, may exercise those powers in the same manner and to the same effect as if they had been conferred on that person directly by this Act and not by way of delegation.

6. *Constitution of Wild Life Advisory Board.*—(1) The State Government, or, in the case of a Union territory, the Administrator, shall as soon as may be after the commencement of this Act, constitute a Wild Life Advisory Board consisting of the following members, namely:—

- (a) the Minister in charge of forests in the State or Union territory, or, if there is no such Minister, the Chief Secretary to the State Government, or, as the case may be, the Chief Secretary to the Government of the Union territory, who shall be the Chairman;
- (b) two members of the State Legislature or, in the case of a Union territory having a Legislature, two members of the Legislature of the Union territory, as the case may be;
- (c) Secretary to the State Government, or the Government of the Union territory, in charge of forests;
- (d) Chief Conservator of Forests, *ex-officio*;
- (e) an officer to be nominated by the Director;
- (f) Chief Wild Life Warden, *ex-officio*;
- (g) such other officers and non-officials, not exceeding fifteen, who, in the opinion of the State Government, are interested in the protection of wild life.

(2) The State Government shall appoint Chief Conservator of Forests or Chief Wild Life Warden as the Secretary of the Board.

(3) The term of office of the members of the Board referred to in clause (g) of sub-section (1) and the manner of filling vacancies among them shall be such as may be prescribed.

(4) The members shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as the State Government may prescribe.

7. *Procedure to be followed by the Board.*—(1) The Board shall meet at least twice a year at such place as the State Government may direct.

(2) The Board shall regulate its own procedure (including the quorum).

(3) No act or proceeding of the Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the Board not affecting the merits of the case.

8. *Duties of Wild Life Advisory Board.*—It shall be the duty of the Wild Life Advisory Board to advise the State Government,—

- (a) in the selection of areas to be declared as sanctuaries, National Parks, game reserves and closed areas and the administration thereof;
- (b) in formulation of the policy in granting licences and permits under this Act;
- (c) in any matter relating to the amendment of any Schedule; and
- (d) in any other matter connected with the protection of wild life, which may be referred to it by the State Government.

CHAPTER III

HUNTING OF WILD ANIMALS

9. *Hunting of wild animals.*—(1) No person shall hunt any wild animal specified in Schedule I.

(2) No person shall hunt any wild animal specified in Schedule I, Schedule III, or Schedule IV, except under, and in accordance with, the conditions specified in a licence granted under sub-section (5).

(3) any person desiring to obtain a licence referred to in sub-section (2) shall apply, in such form, and on payment of such fee, as may be prescribed, to the Chief

Wild life Warden or any other officer authorised by the State Government in this behalf (hereinafter referred to as the authorised officer).

(4) An application under sub-section (3) may be made in all or any of the following kinds of licences, namely:—

- (a) Special game hunting licence.
- (b) Big game hunting licence.
- (c) Small game hunting licence.
- (d) Wild animal trapping licence:

Provided that any such licence may be restricted to the hunting or trapping of such animal as may be specified herein.

(5) On receipt of an application under sub-section (3), the Chief Wild Life Warden or the authorised officer may, after making such inquiry as he may think fit with regard to the fitness or otherwise of the applicant to receive the licence, grant or refuse to grant such licence after recording in writing his reasons for such grant or refusal; and when the grant of a licence is refused, the fee paid therefor shall be refunded to the applicant.

- (6) A licence granted under this section shall—
 - (a) be in such form as may be prescribed;
 - (b) be valid for such period as may be specified therein;
 - (c) be subject to such terms, conditions and restrictions as may be prescribed;
 - (d) not be transferable.

10. Maintenance of records of wild animals killed or captured.—(1) The holder of every licence shall maintain a record, containing such particulars as may be prescribed, of the wild animals, other than vermin, killed or captured by him during the currency of the licence.

(2) When any animal specified in Schedule II or Schedule III is killed, wounded, or captured by the holder of a licence, he shall, not later than fifteen days from the date of such killing, wounding or capture, or before leaving the area specified in the licence, whichever is earlier, intimate in writing to the Chief Wild Life Warden or the authorised officer, the prescribed particulars of such animal killed, wounded or captured by him.

(3) The holder of every licence shall, not later than fifteen days from the date of expiry of such licence, surrender the records maintained by him under sub-section (1) and the licence to the Chief Wild Life Warden or the authorised officer, and shall sign a declaration, in the prescribed form certifying the accuracy of the records maintained by him under sub-section (1).

11. Hunting of wild animals to be permitted in certain cases.—(1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of Chapter IV,—

- (a) the Chief Wild Life Warden may, if he is satisfied that any wild animal specified in Schedule I has become dangerous to human life or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefor, permit any person to hunt animal or cause such animal to be hunted;
- (b) the Chief Wild Life Warden or the authorised officer may, if he is satisfied that any wild animal specified in Schedule II, Schedule III, or Schedule IV, has become dangerous to human life or to property (including standing crops on any land) or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefor, permit any person to hunt such animal or cause such animal to be hunted.

(2) The killing or wounding in good faith of any wild animal in defence of oneself or of any other person shall not be an offence:

Provided that nothing in this sub-section shall exonerate any person who, when such defence becomes necessary, was committing any act in contravention of any provision of this Act or any rule or order made thereunder.

(3) Any wild animal killed or wounded in defence of any person shall be Government property.

12. Grant of permit for special purposes.—Notwithstanding anything contained elsewhere in this Act, it shall be lawful for the Chief Wild Life Warden, to grant, with the previous permission of the State Government, a permit, by an order in writing stating the reasons therefor, to any person, on payment of such fee as may be prescribed, which shall entitle the holder of such permit to hunt, subject to such conditions as may be specified therein, any wild animal specified in such permit, for the purpose of,—

- (a) education;
- (b) scientific research; or
- (c) collection of specimens for zoological gardens, museums and similar institutions.

13. Suspension or cancellation of licence.—The Chief Wild Life Warden or the authorised officer, may, subject to any general or special orders of the State Government, for good and sufficient reason, to be recorded in writing, suspend or cancel any licence granted under this Chapter:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

14. Appeals.—(1) An appeal from an order refusing to grant a licence under section 9, or an order suspending or cancelling a licence under section 13, shall lie,—

- (a) if the order is made by the authorised officer, to the Chief Wild Life Warden, or
- (b) if the order is made by the Chief Wild Life Warden, to the State Government.

(2) In the case of an order passed in appeal by the Chief Wild Life Warden under sub-section (1), a second appeal shall lie to the State Government.

(3) Subject as aforesaid, every order passed in appeal under this section shall be final.

(4) No appeal shall be entertained unless it is preferred within fifteen days from the date of the communication to the applicant of the order appealed against:

Provided that the appellate authority may admit any appeal after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

15. Hunting of young and female of wild animals.—No person shall, unless specially authorised by a licence, hunt the young of any wild animal, other than vermin, or any female of such animal, or any deer with antlers in velvet.

16. Declaration of closed time.—(1) The State Government may, by notification, declare the whole year or any part thereof, to be a closed time throughout the State, or any part thereof, for such wild animal as may be specified in the notification and no hunting of such animal shall be permitted, during the said period, in the area specified in the notification.

(2) The provisions of sub-section (1) shall not apply to vermin unless otherwise specified by the State Government in this behalf.

17. Restrictions on hunting.—(1) No person shall—

- (a) hunt any wild animal, from or by means of, a wheeled or a mechanically propelled vehicle on water or land, or by aircraft;

- (b) use an aircraft, motor vehicle or launch for the purpose of driving or stampeding any wild animal;
 - (c) hunt any wild animal with chemicals, explosives, nets, pitfalls, poisons, poisoned-weapons, snares or traps, except in so far as they relate to the capture of wild animals under a Wild Animal Trapping Licence;
 - (d) hunt any special game or big game other than with a rifle, unless specially authorised by the licence to hunt with a shot-gun using single-slug bullets;
 - (e) for the purpose of hunting, set fire to any vegetation;
 - (f) use any artificial light for the purpose of hunting, except when specially authorised to do so under a licence in the case of carnivora over a kill;
 - (g) hunt any wild animal during the hours of night, that is to say, between sun-set and sun-rise, except when specially authorised to do so under a licence in the case of cranivora over a kill;
 - (h) hunt any wild animal on a salt-lick or water hole or other drinking place or on path or approach to the same, except sandgrouse and water-birds;
 - (i) hunt any wild animal on any land not owned by Government, without the consent of the owner or his agent or the lawful occupier of such land;
 - (j) notwithstanding that he holds a licence for the purpose, hunt any wild animal during the closed time referred to in section 16;
 - (k) hunt, with the help of dogs, any wild animal except water-bird, chakor, partridge or quail.
- (2) The provisions of sub-section (1) shall not apply to vermin.

CHAPTER IV

SANCTUARIES, NATIONAL PARKS, GAME RESERVES AND CLOSED AREAS

Sanctuaries

18. Declaration of sanctuary.—(1) The State Government may, by notification, declare any area to be a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment.

(2) The notification referred to in sub-section (1) shall specify, as nearly as possible the situation and limits of such area.

Explanation. For the purposes of this section, it shall be sufficient to describe the area by roads, rivers, ridges or other well-known or readily intelligible boundaries.

19. Collector to determine rights.—Whenever any area is declared to be a sanctuary, the Collector shall inquire into, and determine, the existence, nature and extent of the rights of any person in or over the land comprised within the limits of the sanctuary.

20. Bar of accrual of rights.—After the issue of a notification under section 18, no right shall be acquired in, on or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.

21. Proclamation by Collector.—When a notification has been issued under section 18, the Collector shall publish in the regional language in every town and village in or in the neighbourhood of the area comprised therein a proclamation—

- (a) specifying, as nearly as possible, the situation and the limits of the sanctuary; and
- (b) requiring any person, claiming any right mentioned in section 19, to prefer before the Collector, within

two months from the dated of such proclamation, a written claim in the prescribed form, specifying the nature and extent of such right with necessary details and the amount and particulars of compensation, if any claimed in respect thereof.

22. Inquiry by Collector.—The Collector shall, after service of the prescribed notice upon the claimant, expeditiously inquire into—

- (a) the claim preferred before him under clause (b) of section 21, and
- (b) the existence of any right mentioned in section 19 and not claimed under clause (b) of section 21, so far as the same may be ascertainable from the records of the State Government and the evidence of any person acquainted with the same.

23. Powers of Collector.—For the purpose of such inquiry, the Collector may exercise the following powers, namely:—

- (a) the power to enter in or upon any land and to survey, demarcate and make a map of the same or to authorise any other officer to do so;
- (b) the same powers as are vested in a civil court for the trial of suits.

24. Acquisition of rights.—(1) In the case of a claim to a right in or over any land referred to in section 19, the Collector shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or, in part, the Collector may either—

- (a) exclude such land from the limits of the proposed sanctuary, or
- (b) proceed to acquire such land or rights, except where by an agreement between the owner of such land or holder of rights and the Government, the owner or holder of such rights has agreed to surrender his rights to the Government, in or over such land, and on payment of such compensation, as is provided in the Land Acquisition Act, 1894 (1 of 1894).

25. Acquisition proceedings.—(1) For the purpose of acquiring such land, or rights in or over such land,—

- (a) the Collector shall be deemed to be a Collector, proceeding under the Land Acquisition Act, 1894 (1 of 1894);
- (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;
- (c) the provisions of the sections, preceding section 9 of that Act, shall be deemed to have been complied with;
- (d) where the claimant does not accept the award made in his favour in the matter of compensation, he shall be deemed, within the meaning of section 18 of that Act, to be a person interested who has not accepted the award, and shall be entitled to proceed to claim relief against the award under the provisions of Part III of that Act;
- (e) the Collector, with the consent of the claimant, or the court, with the consent of both the parties, may award compensation in land or money or partly in land and partly in money; and
- (f) in the case of the stoppage of a public way or a common pasture, the Collector may, with the previous sanction of the State Government, provide for an alternative public way or common pasture, as far as may be practicable or convenient.

(2) The acquisition under this Act of any land or interest therein shall be deemed to be acquisition for a public purpose.

26. *Delegation of Collector's powers.*—The State Government may by general or special order, direct that the powers exercisable or the functions to be performed by the Collector under sections 19 to 25 (both inclusive) may be exercised and performed by such other officer as may be specified in the order.

27. *Restriction on entry in sanctuary.*—(1) No person other than,—

- (a) a public servant on duty,
- (b) a person who has been permitted by the Chief Wild Life Warden or the authorised officer to reside within the limits of the sanctuary,
- (c) a person who has any right over immovable property within the limits of the sanctuary,
- (d) a person passing through the sanctuary along a public highway, and
- (e) the dependants of the person referred to in clause (a), clause (b) or clause (c),

shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under section 28.

(2) Every person shall, so long as he resides in the sanctuary, be bound—

- (a) to prevent the commission, in the sanctuary, of an offence against this Act;
- (d) where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to help in discovering and arresting the offender;
- (c) to report the death of any wild animal and to safeguard its remains until the Chief Wild Life Warden or the authorised officer takes charge thereof;
- (d) to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading, by any lawful means in his power, any fire within the vicinity of such sanctuary of which he has knowledge or information; and
- (e) to assist any forest officer, Chief Wild Life Warden, Wild Life Warden or police officer demanding his aid for preventing the commission of any offence against this Act or in the investigation of any such offence.

28. *Grant of permit.*—(1) The Chief Wild Life Warden may, on application, grant to any person a permit to enter or reside in a sanctuary for all or any of the following purposes, namely:—

- (a) investigation or study of wild life and purposes ancillary or incidental thereto;
- (b) photography;
- (c) scientific research;
- (d) tourism;
- (e) transaction of lawful business with any person residing in the sanctuary.

(2) A permit to enter or reside in a sanctuary shall be issued subject to such conditions and on payment of such fee as may be prescribed.

29. *Hunting in sanctuary without permit prohibited.*—

(1) Notwithstanding anything contained elsewhere in this Act, no person shall hunt any wild animal in a sanctuary or remove therefrom any wild animal, whether alive or dead, or any trophy, uncured trophy, or meat derived from such animal:

Provided that if the Chief Wild Life Warden is satisfied that it is necessary that any wild animal in a sanctuary should be hunted or removed,—

- (a) for the better protection of wild life, or
- (b) for any other good and sufficient reason, he may, with the previous approval of the State Govern-

ment, grant a permit authorising any person to hunt or remove such wild animal under the direction of an officer authorised by him or cause it to be hunted or removed.

(2) A permit granted under sub-section (1) shall specify the kind and number of wild animals that may be hunted or removed by the holder of such permit.

(3) The Chief Wild Life Warden may, for good and sufficient reason, to be recorded in writing, cancel any permit granted under section 28 or under this section:

Provided that no such cancellation shall be made except after giving the holder of the permit a reasonable opportunity of being heard.

(4) Any person aggrieved by the cancellation of a permit under sub-section (3) may, within fifteen days from the date of such cancellation, appeal to the State Government, whose decision shall be final:

Provided that the State Government may admit any appeal preferred after the expiry of the period aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

30. *Causing fire prohibited.*—No person shall set fire to a sanctuary, or kindle any fire or leave any fire burning, in a sanctuary, in such manner as to endanger such sanctuary.

31. *Prohibition of entry into sanctuary with weapon.*—No person shall enter a sanctuary with any weapon except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

32. *Ban on use of injurious substances.*—No person shall use, in a sanctuary, chemicals, explosives or any other substances which may cause injury to, or endanger, any wild life in such sanctuary.

33. *Control of sanctuaries.*—The Chief Wild Life Warden shall be the authority who shall control, manage and maintain all sanctuaries and for that purpose, within the limits of any sanctuary,—

- (a) may construct such roads, bridges, buildings, fences or barrier gates, and carry out such other works as he may consider necessary for the purposes of such sanctuary;
- (b) shall take such steps as will ensure the security of wild animals in the sanctuary and the preservation of the sanctuary and wild animals therein;
- (c) may take such measures, in the interests of wild life, as he may consider necessary for the improvement of any habitat;
- (d) may regulate, control or prohibit, in keeping with the interests of wild life, the grazing or movement of cattle;
- (e) may regulate, control or prohibit, any fishing;

34. *Registration of certain persons in possession of arms.*—(1) Within three months from the declaration of any area as a sanctuary, every person residing in or within ten kilometres of any such sanctuary and holding a licence granted under the Arms Act, 1959 (54 of 1959), for the possession of arms or exempted from the provisions of that Act and possessing arms, shall apply in such form, on payment of such fee and within such time as may be prescribed, to the Chief Wild Life Warden or the authorised officer, for the registration of his name.

(2) On receipt of an application under sub-section (1), the Chief Wild Life Warden or the authorised officer shall register the name of the applicant in such manner as may be prescribed.

National Parks

35. Declaration of National Parks.—(1) Whenever it appears to the State Government that an area, whether within a sanctuary or not, is, by reason of its ecological, faunal, floral, geomorphological or zoological association or importance, needed to be constituted as a National Park for the purpose of protecting, propagating or developing wild life therein or its environment, it may, by notification, declare its intention to constitute such area as a National Park.

(2) The notification referred to in sub-section (1) shall define the limits of the area which is intended to be declared as a National Park.

(3) Where any area is intended to be declared as a National Park, the provisions of sections 19 to 26 (both inclusive) shall, as far as may be, apply to the investigation and determination of claims, and extinguishment of rights, in relation to any land in such area as they apply to the said matters in relation to any land in a sanctuary.

(4) When the following events have occurred, namely,—

- (a) the period for preferring claims has elapsed; and all claims, if any, made in relation to any land in an area intended to be declared as a National Park, have been disposed of by the State Government, and
- (b) all rights in respect of lands proposed to be included in the National Park have been vested in the State Government,

the State Government shall publish a notification specifying the limits of the area which shall be comprised within the National Park and declare that the said area shall be a National Park on and from such date as may be specified in the notification.

(5) No alteration of the boundaries of a National Park shall be made except on a resolution passed by the Legislature of the State.

(6) No person shall destroy, exploit or remove any wild life from a National Park or destroy or damage the habitat of any wild animal or deprive any wild animal of its habitat within such National Park except under and in accordance with a permit granted by the Chief Wild Life Warden and no such permit shall be granted unless the State Government, being satisfied that such destruction, exploitation or removal of wild life from the National Park is necessary for the improvement and better management of wild life therein, authorises the issue of such permit.

(7) No grazing of any cattle shall be permitted in a National Park and no cattle shall be allowed to enter therein except where such cattle is used as a vehicle by a person authorised to enter such National Park.

(8) The provisions of sections 27 and 28, sections 30 to 32 (both inclusive), and clauses (a), (b) and (c) of section 33, and section 34 shall, as far as may be, apply in relation to a National Park as they apply in relation to a sanctuary.

Game Reserve

36. Declaration of game reserve.—(1) The State Government may, by notification declare any area to be a game reserve.

(2) No hunting of any wild animal shall be permitted in such reserve except under and in accordance with a licence issued under this section by the Chief Wild Life Warden or the authorised officer.

Closed Area

37. Declaration of close area.—(1) The State Government may, by notification, declare any area closed to hunting for such period as may be specified in the notification.

(2) No hunting of any wild animal shall be permitted in a closed area during the period specified in the notification referred to in sub-section (1).

Sanctuaries or National Parks declared by Central Government

38. Power of Central Government to declare areas as sanctuaries or National Parks.—(1) Where the State Government leases or otherwise transfers any area under its control, not being an area within a sanctuary, to the Central Government, the Central Government may, if it is satisfied that the conditions specified in section 18 are fulfilled in relation to the area so transferred to it, declare such area, by notification, to be a sanctuary and the provisions of sections 19 to 35 (both inclusive), 54 and 55 shall apply in relation to such sanctuary as they apply in relation to a sanctuary declared by the State Government.

(2) The Central Government may, if it is satisfied that conditions specified in section 35 are fulfilled in relation to any area referred to in sub-section (1), whether or not such area has been declared, to be a sanctuary by the Central Government or the State Government, declare such area, by notification, to be a National Park and the provisions of sections 35, 54 and 55 shall apply in relation to such National Park as they apply in relation to a National Park declared by the State Government.

(3) In relation to a sanctuary or National Park declared by the Central Government, the powers and duties of the Chief Wild Life Warden under the sections referred to in sub-sections (1) and (2), shall be exercised and discharged by the Director or by such other officer as may be authorised by the Director in this behalf and references, in the sections aforesaid, to the State Government shall be construed as references to the Central Government and reference therein to the Legislature of the State shall be construed as a reference to Parliament.

CHAPTER V

TRADE OR COMMERCE IN WILD ANIMALS, ANIMAL ARTICLE; AND TROPHIES

39. Wild animals, etc., to be Government property.—(1) Every—

- (a) wild animal, other than vermin, which is hunted under section 11 or sub-section (1) of section 29 or sub-section (6) of section 35 or kept or bred in captivity in contravention of any provision of this Act or any rule or order made thereunder or found dead, or killed without a licence or by mistake; and
- (b) animal article, trophy or uncured trophy or meat derived from any wild animal referred to in clause (a) in respect of which any offence against this Act or any rule or order made thereunder has been committed,

shall be the property of the State Government, and, where such animal is hunted in a sanctuary or National Park declared by the Central Government, such animal or any animal article, trophy, uncured trophy or meat derived from such animal, shall be the property of the Central Government.

(2) Any person who obtains, by any means, the possession of Government property, shall, within forty-eight hours from obtaining such possession, make a

report as to the obtaining of such possession to the nearest police station or the authorised officer and shall, if so required, hand over such property to the officer-in-charge of such police station or such authorised officer, as the case may be.

(3) No person shall, without the previous permission in writing of the Chief Wild Life Warden or the authorised officer—

- (a) acquire or keep in his possession, custody or control, or
- (b) transfer to any person, whether by way of gift, sale or otherwise, or
- (c) destroy or damage, such Government property.

40. Declarations.—(1) Every person having at the commencement of this Act the control, custody or possession of any captive animal specified in Schedule I or Part II of Schedule II, or any uncured trophy derived from such animal or salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, shall, within thirty days from the commencement of this Act, declare to the Chief Wild Life Warden or the authorised officer the number and description of the animal, or article of the foregoing description under his control, custody or possession and the place where such animal or article is kept.

(2) No person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale or otherwise transfer or transport any animal specified in Schedule I or Part II or Schedule II or any uncured trophy or meat derived from such animal, or the salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

(3) Nothing in sub-section (1) or sub-section (2) shall apply to a public museum or zoo.

(4) The State Government may, by notification, require any person to declare to the Chief Wild Life Warden or the authorised officer any animal article or trophy (other than a musk of a musk deer or horn of a rhinoceros) or salted or dried skins derived from animal specified in Schedule I Part or II of Schedule II in his control, custody or possession in such form, in such manner, and within such time, as may be prescribed.

41. Inquiry and preparation of inventories.—(1) On receipt of a declaration made under section 40, the Chief Wild Life Warden or the authorised officer may, after such notice, in such manner and at such time, as may be prescribed,—

- (a) enter upon the premises of a person referred to in section 40;
- (b) make inquiries and prepare inventories of animal articles, trophies, uncured trophies, salted and dried skins and captive animals specified in Schedule I and Part II of Schedule II and found thereon; and
- (c) affix upon the animals, animal articles, trophies or uncured trophies, identification marks in such manner as may be prescribed.

(2) No person shall obliterate or counterfeit any identification mark referred to in this Chapter.

42. Certificate of ownership.—The Chief Wild Life Warden may, for the purposes of section 40, issue a certificate of ownership in such form, as may be prescribed, to any person who in his opinion, is in lawful possession of any wild animal or any animal article, trophy, uncured trophy and may, where possible, mark, in the prescribed manner, such animal article, trophy or uncured trophy

for purposes of identification.

43. Regulation of transfer of animal, etc.—(1) Subject to the provisions of sub-section (2), sub-section (3) and sub-section (4), a person (other than a dealer) who does not possess a certificate of ownership shall not—

- (a) sell or offer for sale or transfer whether by way of sale, gift or otherwise, any wild animal specified in Schedule I or Part II of Schedule II or any captive animal belonging to that category or any animal article, trophy, uncured trophy or meat derived therefrom;
- (b) make animal articles containing part or whole of such animal;
- (c) put under a process of taxidermy an uncured trophy of such animal,

except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

(2) Where a person transfers or transports from the State in which he resides to another State or acquires by transfer from outside the State any such animal, animal article, trophy, or uncured trophy as is referred to in sub-section (1) in respect of which he has a certificate of ownership, he shall, within thirty days of the transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

(3) No person who does not possess a certificate of ownership shall transfer or transport from one State to another State or acquire by transfer from outside the State any such animal, animal article, trophy or uncured trophy as is referred to in sub-section (1) except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is to be effected.

(4) Before granting any permission under sub-section (1) or sub-section (3), the Chief Wild Life Warden or the authorised officer shall satisfy himself that the animal or article referred to therein has been lawfully acquired.

(5) While permitting the transfer or transport of any animal, animal article, trophy or uncured trophy, as is referred to in sub-section (1), the Chief Wild Life Warden or the authorised officer—

- (a) shall issue a certificate of ownership after such inquiry as he may deem fit;
 - (b) shall, where the certificate of ownership existed in the name of the previous owner, issue a fresh certificate of ownership in the name of the person to whom the transfer has been effected;
 - (c) may affix an identification mark on any such animal, animal article, trophy or uncured trophy.
- (6) Nothing in this section shall apply—
- (a) to animal articles or trophies made out of feathers of peacocks;
 - (b) to any transaction entered into by a public museum or zoo with any other public museum or zoo.

44. Dealings in trophy and animal articles without licence prohibited.—(1) Except under, and in accordance with, a licence granted under sub-section (4), no person shall—

- (a) commence or carry on the business as—
 - (i) a manufacturer of or dealer in, any animal article; or
 - (ii) a taxidermist; or
 - (iii) a dealer in trophy or uncured trophy; or
 - (iv) a dealer in captive animals; or
 - (v) a dealer in meat; or
- (b) cook or serve meat in any eating-house:

Provided that nothing in this sub-section shall prevent a person, who, immediately before the commencement of

this Act was carrying on the business or occupation specified in this sub-section, from carrying on such business or occupation for a period of thirty days from such commencement, or where he has made an application within that period for the grant of a licence to him until the licence is granted to him or he is informed in writing that a licence cannot be granted to him:

Provided further that nothing in this sub-section shall apply to manufacturers of, and dealers in, articles made of ivory and feathers of peacocks.

Explanation.—For the purposes of this section, "eating-house" includes a hotel, restaurant or any other place where any eatable is served on payment, whether or not such payment is separately made for such eatable or is included in the amount charged for board and lodging.

(2) Every manufacturer of, or dealer in, animal article, or every dealer in captive animals, trophies or uncured trophies, or every taxidermist shall within fifteen days from the commencement of this Act, declare to the Chief Wild Life Warden his stocks of animal articles, captive animal, trophies and uncured trophies, as the case may be, as on the date of such declaration and the Chief Wild Life Warden or the authorised officer may place an identification mark on every animal article, captive animal, trophy or uncured trophy, as the case may be.

(3) Every person referred to in sub-section (1) who intends to obtain a licence, shall, within fifteen days from the commencement of this Act, make an application to the Chief Wild Life Warden or the authorised officer for the grant of a licence.

(4) (a) Every application referred to in sub-section (3) shall be made in such form and on payment of such fee as may be prescribed, to the Chief Wild Life Warden or the authorised officer.

(b) No licence referred to in sub-section (1) shall be granted unless the Chief Wild Life Warden, or the authorised officer having regard to such matters as may be prescribed in this behalf and after making such inquiry in respect of those matters as he may think fit, is satisfied that the licence should be granted.

(5) Every licence granted under this section shall specify the premises in which and the conditions, if any, subject to which the licensee shall carry on his business.

(6) Every licence granted under this section shall—

(a) be valid for one year from the date of its grant;

(b) not be transferable; and

(c) be renewable for a period not exceeding one year at a time.

(7) No application for the renewal of a licence shall be rejected unless the holder of such licence has been given a reasonable opportunity of presenting his case, and unless the Chief Wild Life Warden or the authorised officer is satisfied that—

(i) the application for such renewal has been made after the expiry of the period specified therefor, or

(ii) any statement made by the applicant at the time of the grant or renewal of the licence was incorrect or false in material particulars, or

(iii) the applicant has contravened any term or condition of the licence or any provision of this Act or any rule made thereunder, or

(iv) the applicant does not fulfil the prescribed conditions.

(8) Every order granting or rejecting an application for the grant or renewal of a licence shall be made in writing.

(9) Nothing in the foregoing sub-sections shall apply in relation to vermin.

45. Suspension or cancellation of licences.—Subject to any general or special order of the State Government, the Chief Wild Life Warden or the authorised officer may, for reasons to be recorded by him in writing, suspend or cancel any licence granted or renewed under section 44:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

46. Appeal.—(1) An appeal from an order refusing to grant or renew a licence under section 44 or an order suspending or cancelling a licence under section 45 shall lie—

(a) if the order is made by the authorised officer; to the Chief Wild Life Warden; or

(b) if the order is made by the Chief Wild Life Warden to the State Government.

(2) In the case of an order passed in appeal by the Chief Wild Life Warden under clause (a) of sub-section (1), a second appeal shall lie to the State Government.

(3) Subject as aforesaid, every order passed in appeal under this section shall be final.

(4) An appeal under this section shall be preferred within thirty days from the date of the communication, to the appellant, of the order appealed against:

Provided that the appellate authority may admit any appeal preferred after the expiry of the period aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

47. Maintenance of records.—A licence under this Chapter shall—

(a) keep records, and submit such returns of his dealings, as may be prescribed,—

(i) to the Director or any other officer authorised by him in this behalf, and

(ii) to the Chief Wild Life Warden or the authorised Officer; and

(b) make such records available on demand for inspection by such officers.

48. Purchase of animal, etc., by licensee.—No licensee under this Chapter shall—

(a) keep in his control, custody or possession,—

(i) any animal, animal article, trophy or uncured trophy in respect of which a declaration under the provisions of sub-section (2) of section 44 has to be made but has not been made;

(ii) any animal or animal article, trophy, uncured trophy or meat which has not been lawfully acquired under the provisions of this Act or any rule or order made thereunder;

(b) (i) capture any wild animal, or

(ii) acquire, receive, keep in his control, custody or possession, or sell, offer for sale or transport, any captive animal specified in Schedule I or Part II of Schedule II or any animal article, trophy, uncured trophy or meat derived therefrom or serve such meat, or put under a process of taxidermy or make animal article containing part or whole of such animal,

except in accordance with such rules as may be made under this Act:

Provided that where the acquisition or, possession, control or custody of such animal or animal article, trophy or uncured trophy entails the transfer or transport from one State to another, no such transfer or transport shall be effected except with the previous permission in writing of the Director or any other officer authorised by him in this behalf:

Provided further that no such permission under the foregoing proviso shall be granted unless the Director or the officer authorised by him is satisfied that the animal or article aforesaid has been lawfully acquired.

49. Purchase of captive animal, etc., by a person other than a licensee.—No person shall purchase, receive or acquire any captive animal, wild animal, other than vermin, or any animal article, trophy, uncured trophy or meat derived therefrom otherwise than from a dealer or from a person authorised to sell or otherwise transfer the same under this Act:

Provided that nothing in this section shall apply to any transaction entered into by a public museum or zoo with any other public museum or zoo.

CHAPTER VI PREVENTION AND DETECTION OF OFFENCES

50. Power of entry, search, arrest and detention.—(1) Notwithstanding anything contained in any other law for the time being in force, the Director or any other officer authorised by him in this behalf or the Chief Wild Life Warden or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector, may, if he has reasonable grounds for believing that any person has committed an offence against this Act,—

- (a) require any such person to produce for inspection any captive animal, wild animal, animal article, meat, trophy or uncured trophy in his control, custody or possession, or any licence, permit or other document granted to him or required to be kept by him under the provisions of this Act;
- (b) stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle or vessel, in the occupation of such person, and open and search any baggage or other things in his possession;
- (c) seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy in the possession of any person and appearing to him to be Government property, together with any trap, tool vehicle, vessel or weapon used for committing any such offence, and unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without warrant, and detain him.

(2) Any officer of a rank not inferior to that of an Assistant Director of Wild Life Preservation or Wild Life Warden, who, or whose subordinate, has seized any trap, tool, vehicle, vessel or weapon under clause (c) of sub-section (1), may release the same, on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

(3) It shall be lawful for any of the officers referred to in sub-section (1) to stop and detain any person, whom he sees doing any act for which a licence or permit is required under the provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he may be arrested without warrant, unless he furnishes his name and address, and otherwise satisfies the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him.

(4) Any person detained, or things seized under the foregoing power, shall forthwith be taken before a

Magistrate to be dealt with according to law.

(5) Any person who, without reasonable cause, fails to produce anything, which he is required to produce under this section, shall be guilty of an offence against this Act.

(6) (a) Where any meat or uncured trophy is seized under the provisions of this section, the Assistant Director of Wild Life Preservation or any other officer of a gazetted rank authorised by him in this behalf or the Chief Wild Life Warden or the authorised officer may arrange for the sale of the same and deal with the proceeds of such sale in such manner as may be prescribed.

(b) Where it is proved that the meat or uncured trophy seized under the provisions of this section is not Government property, the proceeds of the sale shall be returned to the owner.

(7) Whenever any person is approached by any of the officers referred to in sub-section (1) for assistance in the prevention or detection of an offence against this Act, or in apprehending persons charged with the violation of this Act, or for seizure in accordance with clause (c) of sub-section (1); it shall be the duty of such person or persons to render such assistance.

51. Penalties.—(1) Any person who contravenes any provision of this Act or any rule or other order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both:

Provided that where the offence committed is in relation to any animal specified in Schedule I or Part II of Schedule II or meat of any such animal or animal article, trophy or uncured trophy derived from such animal or where the offence relates to hunting in a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than six months but may extend to six years and also with fine which shall not be less than five hundred rupees:

Provided further that in the case of a second or subsequent offence of the nature mentioned in the foregoing proviso, the term of imprisonment shall not be less than one year and the amount of the fine shall not be less than one thousand rupees.

(2) When any person is convicted of an offence against this Act, the Court trying the offence may order that any captive animal, wild animal, animal article, trophy, uncured trophy or meat in respect of which the offence has been committed, and any trap, tool, vehicle, vessel or weapon, used in the commission of the said offence be forfeited to the State Government and that any licence or permit, held by such person under the provision of this Act, be cancelled.

(3) Such cancellation of licence or permit or such forfeiture shall be in addition to any other punishment that may be awarded for such offence.

(4) Where any person is convicted of an offence against this act, the Court may direct that the licence, if any, granted to such person under the Arms Act, 1959 (54 of 1959), for possession of any arm with which an offence against this Act has been committed, shall be cancelled and that such person shall not be eligible for a licence under the Arms Act, 1959, for a period of five years from the date of conviction.

52. Attempts and abetment.—(Whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or of any rule or order made

thereunder shall be deemed to have contravened that provision or rule or order, as the case may be.

53. Punishment for wrongful seizure.—If any person, exercising powers under this Act, vexatiously and unnecessarily seizes the property of any other person on the pretence of seizing it for the reasons mentioned in section 50, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

54. Power to compound offences.—(1) The State Government may, by notification, empower the Chief Wild Life Warden or any officer of a rank not inferior to that of a Deputy Conservator of Forests—

(a) to accept, from any person against whom a reasonable suspicion exists that he has committed an offence against this Act, payment of a sum of money by way of composition of the offence which such person is suspected to have committed; and

(b) when any property has been seized as liable to be forfeited, to release the same on payment of the value thereof as estimated by such officer.

(2) On payment of such sum of money or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, and the property, other than Government property, if any, seized, shall be released and no further proceedings in respect of the offence shall be taken against such person.

(3) The officer compounding any offence may order the cancellation of any licence or permit granted under this Act to the offender, or if not empowered to do so, may approach an officer so empowered, for the cancellation of such licence or permit.

(4) The sum of money accepted or agreed to be accepted as composition under clause (b) of sub-section (1) shall, in no case, exceed the sum of two thousand rupees:

Provided that no offence, for which a minimum period of imprisonment has been prescribed in sub-section (1) of section 51, shall be compounded.

55. Cognizance of offences.—No court shall take cognizance of any offence against this Act except on the complaint of the Chief Wild Life Warden or such other officer as the State Government may authorise in this behalf.

56. Operation of other laws not barred.—Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for the time being in force, for any act or omission which constitutes an offence against this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act:

Provided that no person shall be punished twice for the same offence.

57. Presumption to be made in certain cases.—Where, in any prosecution for an offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, meat, trophy or uncured trophy, it shall be presumed, until the contrary is proved, the burden of proving which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, trophy or uncured trophy.

58. Offences by companies.—(1) Where an offence against this Act has been committed by a company, every

person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence against this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER VII MISCELLANEOUS

59. Officers to be public servants.—Every officer referred to in Chapter II and every other officer exercising any of the powers conferred by this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

60. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by any thing which is in good faith done or intended to be done under this Act.

61. Power to alter entries in Schedules.—(1) The Central Government may, if it is of opinion that it is expedient so to do, by notification, add any entry to any Schedule or transfer any entry from one Part of a Schedule to another Part of the same Schedule or from one Schedule to another.

(2) The State Government may, if it is of opinion that it is expedient so to do, by notification, transfer any entry from Schedule II, Schedule III, Schedule IV or Schedule V to Schedule I and may also transfer any entry from Part of Schedule II, or Schedule III, Schedule IV or Schedule V, to any other Schedule.

(3) On the issue of a notification under sub-section (1) or sub-section (2), the relevant Schedule shall be deemed to be altered accordingly, provided that every such alteration shall be without prejudice to anything done or omitted to be done before such alteration.

(4) If any alteration of any Schedule made by the State Government under sub-section (2) is repugnant to any alteration made therein by the Central Government under sub-section (1), then the alteration made by the Central Government, whether made before, or after the notification made by the State Government, shall prevail

and the alteration made by the State Government shall, to the extent of the repugnancy, to void:

Provided that any such alteration made by the State Government, if it has been made with the previous consent of the Central Government, shall prevail in that State;

Provided further that nothing in the foregoing proviso shall prevent the Central Government from modifying or cancelling, at any time, the alteration made by the State Government.

62. Declaration of certain wild animals to be vermin.—Subject to the provisions of section 61, the State Government may, by notification, declare any wild animal other than those specified in Schedule I and Part II of Schedule II to be vermin for any area and for such period as may be specified therein and so long as such notification is in force, such wild animal shall be deemed to have been included in Schedule V.

63. Power of Central Government to make rules.—(1) The Central Government may, by notification, made rules for all or any of the following, namely:—

- (a) the form in which declaration shall be made under sub-section (2) of section 44;
- (b) the terms and conditions which shall govern transactions referred to in clause (b) of section 48;
- (c) matters specified in sub-section (2) of section 54 in so far as they relate to sanctuaries and National Parks declared by the Central Government.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

64. Power of State Government to make rules.—(1) The State Government may, by notification, make rules for carrying out the provisions of this Act in respect of matters which do not fall within the purview of section 63.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the term of office of the members of the Board referred to in clause (g) of sub-section (1) of section 6 and the manner of filling vacancies among them;
- (b) allowances referred to in sub-section (4) of section 6;
- (c) the forms to be used for any application, certificate, claim, declaration, licence, permit, registration, return or other document, made, granted, or submitted under the provisions of this Act and the fees, if any, therefor;
- (d) the conditions subject to which any licence or permit may be granted under this Act;
- (e) the particulars of the record of wild animals (captured or killed) to be kept and submitted by the licensee;
- (f) regulation of the possession, transfer and the

sale of captive animals, meat, animal articles, trophies and uncured trophies;

(g) regulation of taxidermy;

(h) any other matter which has to be, or may be, prescribed under this Act.

65. Rights of Scheduled Tribes to be protected.—Nothing in this Act shall affect the hunting rights conferred on the Scheduled Tribes of the Nicobar Islands in the Union territory of Andaman and Nicobar Islands by notification of the Andaman and Nicobar Administration, No. 40/67/F, No. G 635 Vol. III, dated the 28th April, 1967, published at pages 1 to 5 of the Extraordinary issue of the Andaman and Nicobar Gazette, dated the 28th April, 1967.

66. Repeal and Savings.—(1) As from the commencement of this Act, every other Act relating to any matter contained in this Act and in force, a State shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant, to this Act or any provision contained in this Act, stand repealed:

Provided that such repeal shall not,—

- (i) affect the previous operation of the Act so repealed, or anything duly done or suffered the reunder;
- (ii) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed;
- (iii) affect any penalty, for forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or
- (iv) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation liability, penalty, for forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if the aforesaid Act had not been repealed.

(2) Notwithstanding such repeal,—

- (a) anything done or any action taken under the Act so repealed (including any notification, order, certificate, notice or receipt issued, application made, or permit granted) which is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at the time such thing was done or action was taken, and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act;
- (b) every licence granted under any Act so repealed and in force immediately before the commencement of this Act shall be deemed to have been granted under the corresponding provisions of this Act and shall, subject to the provisions of this Act, continue to be in force for the unexpired portion of the period for which such licence had been granted.

(3) For the removal of doubts, it is hereby declared that any sanctuary or National Park declared by a State Government under any Act repealed under sub-section (1) shall be deemed to be a sanctuary or National Park, as the case may be, declared by the State Government under this Act and where any right in or over any land in any such National Park which had not been extinguished under the said Act, at or before the commencement of this Act, the extinguishment of such rights shall be made in accordance with the provisions of this Act.

SCHEDULE I

(See sections 2, 8, 9, 11, 40, 41, 43, 48, 51, 61 and 62)

PART I: MAMMALS

1. Binturong (*Arctictis binturong*).
2. Black buck (*Antelope cervicapara*).
3. Brow-antlered deer or Thamin (*Cervus eldi*).
4. Caracal (*Felis caracal*).
5. Cheetah (*Acinonyx jubatus*).
6. Clouded Leopard (*Neofelis nebulosa*).
7. Dugong (*Dugong dugon*).
8. Fishing cat (*Felis viverrina*).
9. Golden cat (*Felis temminckii*).
10. Golden langur (*Presbytis geei*).
11. Hispid hare (*Caprolagus hispidus*).
12. Hoolock (*Hylobates hoolock*).
13. Indian lion (*Panthera leo persica*).
14. Indian Wild Ass (*Equus hemionus khur*).
15. Indian Wolf (*Canis lupus*).
16. Kashmir Stag (*Cervus elaphus hanglu*).
17. Leopard cat (*Felis bengalensis*).
18. Lesser or Red panda (*Ailuurus fulgens*).
19. Lion-tailed macaque (*Macaca silenus*).
20. Loris (*Loris tardigradus*).
21. Lynx (*Felis lynx isabellinus*).
22. Malabar Civet (*Viverra zibethica*).
23. Marbled cat (*Felis marmorata*).
24. Markhor (*Capra falconeri*).
25. Musk deer (*Moschus moschiferus*).
26. Ovis Ammon or Nyan (*Ovis ammon hodgsoni*).
27. Pallas's cat (*Felis manul*).
28. Pangolin (*Manis crassicaudata*).
29. Pygmy hog (*Sus salvanius*).
30. Rhinoceros (*Rhinoceros unicornis*).
31. Rusty spotted cat (*Felis rubiginosa*).
32. Slow Loris (*Nycticebus coucang*).
33. Snow leopard (*Panthera uncia*).
34. Spotted linsang (*Prionodon pardicolor*).
35. Swamp deer (all sub-species of *Cervus duvauceli*).
36. Takin or Mishmi Takin (*Budorcas taxicolor*).
37. Tibetan Gazelle (*Procapra picticaudata*).
38. Tibetan Wild Ass (*Equus hemionus kiang*).
39. Tiger (*Panthera tigris*).
40. Urial or Shapu (*Ovis vignei*).
41. Wild buffalo (*Bubalus bubalis*).

PART II: AMPHIBIANS AND REPTILES

1. Crocodiles (including the Estuarine or salt water crocodile) (*Crocodilus porosus* and *Crocodilus palustris*).
2. Gharial (*Gavialis gangeticus*).

PART III: BIRDS

1. Baza (*Aviceda jerdoni* and *Aviceda leuphotes*).
2. Cheer Pheasant (*Catreus walchii*).
3. Great Indian Bistard (*Choriotis nigriceps*).
4. Great Indian Hornbill (*Buceros bicornis*).
5. Jerdon's Courser (*Cursorius bitorquatus*).
6. Lammergeier (*Gypaetus barbatus*).
7. Large Falcons (*Falco peregrinus*, *Falco biarmicus* and *Falco chagura*).
8. Mountain quail (*Ophrysia superciliosa*).
9. Narcondom Hornbill (*Rhyticeros undulatus narcondami*).
10. Nicobar Megapode (*Megapodius freycient*).
11. Peafowl (*Pavo cristatus*).
12. Rinkheaded duck (*Rhodessa caryophyllacea*).
13. Scalter's Monal (*Lophophorus sclateri*).
14. Siberian White crane (*Grus leucogeranus*).

15. Tragopan Pheasants (*Tragopan imelanocephalus*, *Tragopan blythii*, *Tragopan satyra*, *Tragopan temminckii*).
16. Whitebellied Sea Eagle (*Haliaeetus leucogaster*).
17. White-eared Pheasant (*Crossopilon crossopilon*).
18. White-winged Wood Duck (*Carina scutulata*).

SCHEDULE II

(See sections 2, 8, 9, 10, 11, 40, 41, 43, 48, 51, 61 and 62)

SPECIAL GAME

PART I

1. Agra Monitor Lizard [*Varanus griseus* (Daudin)].
2. Bengal Porcupine (*Altherurus macrourus assamensis*).
3. Bison or Gaur (*Bos gaurus*).
4. Capped Langur (*Presbytis pileatus*).
5. Crab eating Macaque (*Macaca irus umbrosa*).
6. Dolphin (*Dolphinus delphis*, *Palaenotus gangetica*).
7. Ferret Badgers (*Melogale moschata* and *Melogale personata*).
8. Flying squirrels (All species of the genus *Hylopetes*, *Petaurista*, *Belmys* and *Eupetaurus*).
9. Giant squirrels (*Ratufa macroura*, *Rafuta indica* and *Ratufbicolor*).
10. Himalayan Brown bear (*Ursus arctos*).
11. Himalayan crestless Porcupine (*Hystrix hodoigns*).
12. Hog badger (*Arctonyx collaris*).
13. Indian elephant (*Elephas maximus*).
14. Leaf Monkey (*Presbytis phayrei*).
15. Malay or Sun bear (*Helarctos malayanus*).
16. Pig-tailed Macaque (*Macaca nemestrina*).
17. Pythons (Genus *Python*).
18. Serow (*Capricornis sumatraensis*).
19. Stump-tailed Macaque (*Macaca speciosa*).
20. Tibetan Antelope or Chiru (*Panthelops hodgsoni*).
21. Water Lizard (*Varanus salvator*).
22. Wild Dog or Dhole (*Cuon alpinus*).
23. Wild yak (*Bos grunniens*).

PART II

1. Leopard or Panther (*Panthera pardus*).
2. Nilgiri langur (*Presbytis johni*).
3. Nilgiri Thar (*Hemitragus hylocrius*).

SCHEDULE III

(See sections 2, 8, 9, 10, 11 and 61)

BIG GAME

1. Andaman Wild Pig (*Sus andamanensis*).
2. Barking deer or Muntjac (*Muntiacus muntjak*).
3. Bharal (*Ovis nabhura*).
4. Chinkara or Indian Gazelle (*Gazella gazella bennetti*).
5. Chital (*Axis axis*).
6. Four-horned antelope (*Tetracerus quadricornis*).
7. Gorals (*Nemorhaedus goral*, *Nemorhaedus hodgsoni*).
8. Himalayan black bear (*Selenarctos thibetanus*).
9. Himalayan ibex (*Capra ibex*).
10. Himalayan thar (*Hemitragus jemlahicus*).
11. Hog deer (*Axis porcinus*).
12. Hyena (*Hyaena hyaena*).
13. Mouse deer (*Tragulid meminna*).
14. Nilgai (*Boselaphus tragocamelus*).

15. Ratel (*Mellivora capensis*).
16. Sambar (*Cervus unicolor*).
17. Sloth bear (*Melursus ursinus*).
18. Tibetan wolf (*Canis lupus*).
19. Wild pig (*Sus scrofa*).

SCHEDULE IV

(See sections 2, 8, 9, 11 and 61)

SMALL GAME

1. Desert cat (*Felis libyca*).
2. Desert fox (*Vulpes bucopus*).
3. Ermine (*Mustela erminea*).
4. Hares (Black naped, Common Indian, Desert, Himalayan Mousehare).
5. Marmots (*Marmota bobak himalayana*, *Marmota Caudata*).
6. Martens (*Martes foina intermedia*, *Martes flavigula*, *Martes gwatkinsii*).
7. Otters (*Lutra lutra*, *Lutra perspicillata*, *Aonyx cinerea*).
8. Red fox (*Vulpes vulpes*).
9. Tibetan fox (*Vulpes ferrilatus*).
10. Weasels (*Mustela sibirica*, *Mustela kathiah* and *Mustela altaica*).

1. Birds (other than those sub-species and species mentioned in Part III of Schedule I or in Schedule V, and belonging to the families listed below:—

- (i) Barbets (*Capitonidae*).
- (ii) Barn Owls (*Tytoninae*).
- (iii) Blue-birds (*Irenidae*).
- (iv) Bustards (*Otididae*).
- (v) Bustard-Quail (*Turnicidae*).
- (vi) Chaffinches (*Fringillinae*).
- (vii) Cranes (*Gruidae*).
- (viii) Ducks (*Anatidae*).
- (ix) Emerald Dove (*Columbidae*).
- (x) Falcons (*Falconidae*).
- (xi) Finches (*Fringillidae*).
- (xii) Flamingoes (*Phoenicopteridae*).
- (xiii) Flycatchers (*Mucicapidae*).
- (xiv) Geese (*Anatidae*).
- (xv) Goldfinches and allies (*Carduelinae*).
- (xvi) Grouse (*Pteroclididae*).
- (xvii) Hawks (*Accipitridae*).
- (xviii) Hornbills (*Bucerotidae*).
- (xix) Ioras (*Irenidae*).
- (xx) Jungle and Spur fowl (*Phasianidae*).
- (xxi) Megapodes (*Megapodiidae*).
- (xxii) Mniavets (*Campephagidae*).
- (xxiii) Orioles (*Oriolidae*).
- (xxiv) Owls (*Strigidae*).
- (xxv) Oystercatchers (*Haematopodidae*).
- (xxvi) Partridges (*Phasianidae*).
- (xxvii) Pelicans (*Pelecanidae*).
- (xxviii) Phaesants (*Phasianidae*).
- (xxix) Pigeons (except Flue Rock Pigeon) (*Columbidae*).
- (xxx) Pittas (*Pittidae*).
- (xxxi) Quail (*Phasianidae*).
- (xxxii) Snipe (*Charadriidae*).
- (xxxiii) Sunbirds (*Nectariniidae*).
- (xxxiv) Swans (*Ardeidae*).
- (xxxv) Thrushes (*Muscicapidae*).
- (xxxvi) Trogons (*Trogonidae*).

SCHEDULE V

(See sections 2, 8, 61 and 62)

VERMIN

1. Common crow.
2. Common fox.
3. Fruit bats.
4. Jackal.
5. Mice.
6. Rats.
7. Voles.

Assented to on 27-8-1972

THE CONSTITUTION (TWENTY-EIGHTH

AMENDMENT) ACT, 1972

(ACT No. of 1972)

AN

ACT

further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Constitution (Twenty-eighth Amendment) Act, 1972.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new article 312 A.*—After article 312 of the Constitution, the following article shall be inserted, namely:—

“312A. *Power of Parliament to vary or revoke conditions of service of officers of certain services.*—(1) Parliament may by law—

(a) Vary or revoke, whether prospectively or retrospectively, the conditions of service as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, continue on and after the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post;

(b) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects pension of persons who, having been appointed by the Secretary of State or Secretary of State in council to a civil service of the Crown in India before the commencement of this Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972:

Provided that in the case of any such person who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner, nothing in

